Law Enforcement On Deforestation Forests Conservation In Indonesia

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Abstract.

This research aims to analyze the application of multi-layered crimes in cases of environmental damage as in the case in the Malang District Court decision Number: 76/Pid.B/LH/2022/PN Mlg. with the occurrence of two criminal acts, namely not having a mining permit in a forest area and an act that intentionally caused forest damage. The formulation of the problem in this research is the qualifications of criminal acts of environmental damage and what the judge considers in imposing multiple criminal sanctions in case number: 76/Pid.B/LH/2022/PN Mlg. This research uses normative juridical research methods, as well as using a statutory approach and a case approach.Based on the results of the research and discussion, to determine whether damage to protected forests has occurred is to qualify the criminal act of environmental damage that has been carried out, that the elements of the criminal act related to the subject are defined as the party responsible, there is an element of error by knowing that the criminal act has been committed, the act that is unlawful, namely as violating the provisions in Article 89 paragraph (1) letter a jo. Article 17 paragraph (1) letter b of Law of the Republic of Indonesia Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction related to carrying out mining in forest areas without the Minister's permission and Article 98 paragraph (1) of Law of the Republic of Indonesia Number 32 of 2009 concerning Environmental Protection and Management by exceeding ambient air quality standards, water quality standards, sea water quality standards, or standard criteria for environmental damage and the implementation of concurrent actions (a real collision) is closely related to this research.

Keywords*: Forest Damage and Multiple Crimes.*

I. INTRODUCTION

Indonesia is a country of law which in essence the law functions to protect every human interest, so the law must be implemented using a normal legal implementation system or it can occur due to a violation. Therefore, every law that has been violated must be enforced.[1] In enforcing the law, three elements must be fulfilled as a goal of the law which must be implemented in a balanced manner. If a concrete legal event occurs involving the occurrence of an environmental crime case in a forest area, enforcement of these elements includes legal certainty (*Legal certainty*), legal expediency (*Purposefulness*) and legal justice (*righteousness*)[2].This form of institutionalization of protection for a good and healthy environment is the right of every Indonesian citizen, this is as regulated in Article 28 letter H of the 1945 Constitution of the Republic of Indonesia. Forests, which are a natural resource, should be grateful for their existence by the Indonesian people. which is a gift or gift given by God Almighty.The implementation of this gratitude can be realized by continuing to preserve forests so that the benefits of forests can still be felt by current and future generations. The view that forests are a legacy from ancestors should be changed, because forests are not only a legacy, but are a gift from children and grandchildren, so forests should provide intergenerational and intergenerational benefits.

[3]The benefits of forest products which are a source of life support and community welfare are increasingly declining, this is influenced by acts of forest destruction by irresponsible individuals, therefore the existence of forests should be maintained continuously so that they remain eternal and handled with noble character, fairness, authority, transparency and professionalism, and responsibility.[4] This is related to a news case published by detiknews in 2022, there was a case of illegal mining carried out in the Sendiki

Forest Area, South Malang Regency.[5]In this case, it is stated that the defendant Ahmad Rudi Hartono has been legally and convincingly proven to have carried out dredging, taking and transporting puru land for the construction and management of shrimp ponds that utilize forest areas in the Sendiki area, Malang Regency, which were carried out to gain personal profit without with the permission and knowledge of the members of Gapoktanhut Tani Mamur and resulting in damage to the environment, in the form of damage to the landscape and loss of structure and composition so that protected forests lose their main function as protection for life support systems to regulate water management, prevent flooding, control erosion, prevent intrusion sea water and maintain soil fertility.

Based on this, the consideration of the Panel of Judges in this decision is that the defendant was sentenced to four years and six months in prison and a fine of Rp. 3 billion by the Malang District Court: 76/Pid.B/LH/2022/PN Mlg.dated 18 February 2022.The process of dredging or taking land in a Protected Forest Area which results in environmental damage is an act that is not permitted legally or according to applicable laws and regulations. Based on this, the Panel of Judges stated that the defendant was legally and convincingly proven guilty of committing two criminal acts at once, namely carrying out mining in a forest area without the Minister's permission and intentionally causing the standard criteria for environmental damage to be exceeded.In general, it has been divided into two parts of offenses in the regulation regarding the provisions of environmental crimes as regulated in Law Number 32 of 2009 concerning Environmental Protection and Management, hereinafter referred to as UUPPLH, which includes material offenses which are a type of act that is contrary to the law. and if these actions are fulfilled perfectly, there will be consequences. Meanwhile, a formal offense is an act that is contrary to the law which is deemed to have been fulfilled perfectly without having to prove the consequences of the act.[6]If a material offense is related to the case above which has caused environmental pollution or damage, there is no need to prove a violation in the form of administrative law rules which include permits.

Meanwhile, in formal offenses, the type of criminal act or unlawful act that causes pollution or damage to the environment must be proven by the act of violating administrative law rules which include permits.In environmental matters, it is closely related to the approach*Multidoor System* which is a process or form of institutionalization in law enforcement by implementing several statutory regulations against perpetrators of natural resource crimes, especially environmental pollution and damage. The purpose of*Multidoor System* This is to provide an optimal deterrent effect on perpetrators and restore justice and rights to a good and healthy environment in areas around the forest. Apart from that, the meaning of multiple crimes is defined as a simultaneous occurrence or what is hereinafter referred to as (*Confrontation*).The implementation of multi-layered penalties applied in the Malang District Court decision Number: 76/Pid.B/LH/2022/PN Mlg is a historic decision in Indonesia, because for the first time perpetrators of environmental and forestry crimes have been sentenced to multiple penalties. Therefore, the author is interested in carrying out further analysis in writing this thesis with the title: LAW ENFORCEMENT AGAINST PERFORMERS OF THE CRIMINAL ACT OF LOGGING THE SENDIKI PROTECTED FOREST IN SOUTH MALANG (STUDY DECISION NUMBER: 76/Pid.B/LH/2022/PN Mlg)

II. METHODS

The method used in this research is a normative juridical legal method, which aims to examine theories, concepts, legal principles and statutory regulations that are related to this research. This is also supported by other laws consisting of literature, legal science journals that are related to environmental criminal law issues, as well as other legal materials that can aim to support explanations in discussions, namely the Big Indonesian Dictionary and*Black's Law Dictionary* which has the function of clarifying and providing explanations and meanings for words that are unclear in library study collection techniques.[7]The problem approach used in this research method includes a statutory approach (*statute approach*) namely by

reviewing statutory regulations that are related to the legal issue being researched and the case approach (*case approach*) namely based on the decision of the Malang District Court Number: 76/Pid.B/LH/2022/PN Mlg.[8]Based on the grouping of legal materials consisting of primary, secondary and tertiary legal materials, they will be processed and studied in depth to obtain a pragmatic truth and/or coherence regarding the legal issues being researched.[9]

III. RESULTS AND DISCUSSION

Criminal Acts Related to Environmental Destruction

According to Muhammad Hamdan, based on the explanation of Article 1 number 16 of the UUPPLH, the elements of criminal acts related to environmental damage include:

1. The existence of people's actions;
2. Which causes a change, either directly or indirectly, to the physical and/or biological properties of the environment;
3. Which causes the environment to no longer have a function in sustainable development; And
4. There are other acts that are contrary to the provisions of laws and regulations.[10].

Based on the elements of criminal acts of environmental destruction, when studied and linked to cases of environmental destruction in the Malang District Court Decision Number: 76/Pid.B/LH/2022/PN Mlg, it is that the first element is regarding the actions of people, based on the Dictionary The Indonesian language, hereinafter referred to as KBBI, means that an action is an action that is carried out.[11] Therefore, this person's actions can be carried out by the Defendant himself or based on orders from the Defendant, in this case the Defendant ordered other people to carry out tree felling activities in the Sendiki forest, Malang Regency.

The second element in the criminal act of environmental destruction, if studied and linked to the case of environmental destruction in the Malang District Court Decision Number: 76/Pid.B/LH/2022/PN Mlg, is regarding what causes the environment to no longer have a function in sustainable development, namely by losing the structure, composition and main function of protected forests as protection for life support systems in regulating water systems, preventing floods, controlling erosion, preventing sea water intrusion and maintaining soil fertility.The fourth element in the criminal act of environmental destruction, if studied and linked to the case of environmental destruction in the Malang District Court Decision Number: 76/Pid.B/LH/2022/PN Mlg, is regarding the existence of other acts which are contrary to the provisions of statutory regulations, that is, apart from the act of destroying the environment through land taking and dredging activities, there were other acts carried out by the Defendant, namely not having a Forest Area Borrow-to-Use Permit (IPPKH) from the Minister in carrying out his activities in forest areas, therefore this is an act that is contrary with statutory provisions.

The Urgency of Borrow-to-Use Forest Area Permits

In relation to mining activities that you wish to carry out, you should obtain a permit first, this is in line with the meaning of the permit itself, namely as a form related to the implementation of regulatory functions which have the nature of controlling the government regarding activities that will be carried out by the community. . By granting this permit, the authorities will allow the person requesting the permit to carry out certain activities which are actually not permitted but are permitted in order to take into account the public interest and require supervision.[12]When using forest areas related to mining activities, you must obtain a Borrow-to-Use Forest Area Permit or what is hereinafter referred to as (IPPKH), which is a handover to use part of a forest area, either designated or assigned, to another party for purposes outside the forestry sector. without any change in the status and function of the forest itself.

Regarding implementation activities carried out in forest areas, it consists of 3 (three) stages, namely the first is Approval in Principle for the Use of Forest Areas, the second is Permit to Borrow to Use Forest Areas (IPPKH)*Exploration* and Borrow-to-Use Forest Area Permit (IPPKH)*Exploitation*.[13]The purpose of the IPPKH is to provide guarantees for the use of forest areas such as mining which is an activity outside the forestry sector so that it does not result in the transfer of IPPKH to other parties and to the applicant so that they cannot mortgage or guarantee the forest area that has been loaned for use. to other parties and this is also related to the area of the forest area so that it remains intact and does not experience reduction and continues to give authority to the Government, especially the Ministry of Forestry, to continue to monitor the borrowed forest area through monitoring and evaluation.[14]

Provisions for Criminal Sanctions

The provisions for criminal sanctions regulated in Article 98 paragraph (1) of UUPPLH read that:

"*Any person who intentionally commits an act that results in exceeding the ambient air quality standards, water quality standards, sea water quality standards, or environmental damage standard criteria, shall be punished by imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years. and a minimum fine of Rp. 1.*000*,000,000.00 (one billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah)".*

Meanwhile, the provisions for criminal sanctions regulated in Article 89 paragraph (1) letter a in conjunction with Article 17 paragraph (1) letter b of the P3H Law read that:

"*Individuals who deliberately carry out mining activities in forest areas without the Minister's permission as intended in Article 17 paragraph (1) letter b shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 15 (fifteen) years as well as a fine of a maximum a minimum of IDR 1,000,000,000.00 (one billion rupiah) and a maximum of IDR. 10,000,000,000.00 (ten billion rupiah)".*

The application of imprisonment as a sanction in these two laws and regulations means that the type of application of imprisonment indicates that a person's personal freedom has been lost or taken away. This is caused by the placement of a prison house where the defendant will live without being able to act freely according to his wishes.[15]

In the Criminal Code, the application of the prison sentence system adheres to two terms regarding the length of the prison sentence.

a. *General Penal Minimums*

This term means that the minimum limit in general or the lowest prison sentence is at least one day.

b. *General maximum penalties*

This term means that the general minimum limit or maximum prison sentence is 15 (fifteen) years. However, based on the facts, it is known that the maximum threat of imprisonment is 20 years, this only happens in certain cases, namely for criminal acts that have been committed, there has been an increase in the criminal threat.[16]The application of prison sentences carried out in America and Europe is quite different from that carried out in Indonesia, the prison sentence system carried out in both countries is by using a cell system (*cellular system*) namely by providing special or individual rooms for convicts to occupy. Meanwhile, the implementation of imprisonment in Indonesia cannot be implemented*cellular system* This is due to the lack of large enough funds to establish special individual cells for convicts and because Indonesian society is accustomed to the culture of living in the wild, it is not appropriate to serve a criminal sentence when carrying out a criminal sentence. the prison individually in cells.

[17]The application of criminal fines imposed in these two laws and regulations includes criminal penalties for assets (*capital punishment*) which means that a person who has been sentenced to a crime (defendant) automatically has an obligation attached to him to pay a certain amount of money as a result of

the criminal act he has committed. In the Criminal Code, the criminal sanction of fines does not recognize the term (*General maximum penalties*), but only recognize the term (*General Sentencing Minimums*) just.[18]Furthermore, if it is discovered that the convict is unable/unable to fulfill the fine criminal obligation that has been imposed on him, then the fine criminal sanction can be replaced with a criminal sanction of imprisonment, namely being obliged to undergo a substitute prison sentence or commonly referred to as a subsidiary prison sentence, for a period of time. The minimum duration of imprisonment is 1 (one) day and the maximum is 6 (six) months. This is as regulated in the provisions of Article 30 paragraphs (2) and (3) of the Criminal Code.[19]

Environmental Crimes According to the PPLH Law

In general, criminal acts according to environmental law are divided into 3 (three) aspects, namely those relating to criminal acts of damage, criminal acts of pollution and criminal acts committed by corporations. The regulation of criminal damage is as stated in Article 98 paragraph (1) of the PPLH Law which states that:

"Every person who intentionally commits an act that results in exceeding the ambient air quality standards, water quality standards, sea water quality standards, or environmental damage standard criteria, shall be punished with imprisonment for a minimum of 3 (three) years and a maximum of 10 (ten) years. years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah)"

In relation to the regulation of criminal acts of pollution, it is as stated in Article 100 paragraph (1) of the PPLH Law which reads that:

"Any person who violates waste water quality standards, emission quality standards or nuisance quality standards shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)".

Meanwhile, with regard to the regulation of environmental crimes committed by corporations, it is as regulated in Article 116 paragraph of the PPLH Law which reads that:

"(1) if an environmental crime is committed by, for, or on behalf of a business entity, criminal charges and criminal sanctions are imposed on:

a. *Business entity; and/or*
b. *The person who gives the order to carry out the criminal act or the person who acts as the leader of the activity in the criminal act*

(2) if an environmental criminal act as intended in paragraph (1) is committed by a person, based on a work relationship or other relationship acting within the scope of work of a business entity, criminal sanctions are imposed on the person giving the order or leader in the criminal act without taking into account The crime was committed individually or jointly."

The theory of corporate criminal responsibility includes identification theory, theory*strict liability* and theory*vicarious liability*. The definition of identification theory means that certain agents within a corporation can be referred to as "*directing mind*" or "*fake ago*"In addition, for every form of action and mens rea of individuals or agents related to the corporation and subsequently given the authority to carry out business and act for and on behalf of the corporation, the foregoing*mens rea* individual will change into*mens rea*corporation.[20]Definition of the theory of criminal responsibility*strict liability*, that is, it means that a criminal act does not require an element of fault in the perpetrator. Therefore*mens rea* (mistakes) are not considered but only*criminal act* (deeds) are the main elements of the theory*strict liability*In this case, it is sufficient to be able to prove the existence of suspicion or knowledge of the perpetrator, then the fulfillment of criminal responsibility has been achieved.[21]Definition of the theory of criminal responsibility*vicarious liability*, which is interpreted as vicarious liability. According to Barda Nawawi Arief expressed his opinion

regarding*vicarious liability* namely, it is a concept in a person's responsibility which is based on a mistake committed by another person, but the form of the act is still included in the scope of his work.[22]

Apart from that inside*Black's Law Dictionary* provide related meaning*vicarious liability* namely as follows:

"the liability of an employer for the acts of an employee, of a principle for torts and contracts of an agent"[23]

Which in translation means (the employer's responsibility for the actions of the employee or the principal's responsibility for the agent's actions in a contract.

Application of Sanctions According to the PPLH Law

The PPLH Law also regulates the characteristics of sanctions which consist of administrative sanctions, civil sanctions and criminal sanctions. Regarding the application of administrative sanctions in the PPLH Law, it is a form of application of administrative legal authority, both written and unwritten, carried out by the government, which can be interpreted as a tool of power in the nature of public law to be used by the government as a result of disobedience to the government. obligations relating to applicable state administrative law norms. The application of administrative sanctions through relations between the government and citizens can be implemented directly by administrative officials without having to involve other intermediary parties such as third party intermediaries or judicial power intermediaries. The purpose of implementing administrative sanctions is to be able to return or control an abnormal situation to a normal situation as before, to provide a deterrent effect in the form of punishment to any violators of administrative law norms and to control all prohibited acts to protect interests that are safeguarded by the provisions that have been established. was violated.[24]Regarding the character of environmental damage when viewed from the perspective of administrative sanctions, it is related to the Environmental Impact Analysis, hereinafter referred to as Amdal and environmental permits, namely as explained in Article 1 number 11 of the PPLH Law which reads that:

"Environmental impact analysis, hereinafter referred to as Amdal, is a study of the significant impacts of a planned business and/or activity on the environment which is necessary for the decision-making process regarding the implementation of a business and/or activity".

Based on Article 76 paragraph (2) of the PPLH Law, it relates to administrative sanctions, namely consisting of written warnings, government coercion, freezing environmental permits or revoking environmental permits.The application of civil sanctions in the characteristics of environmental damage as regulated in the PPLH Law is regarding compensation, which is defined as the party who has committed pollution/damage must be responsible for fulfilling his obligation to pay compensation as a result of his actions to the party whose rights have been violated. .[25]

Based on Article 87 paragraph (1) of the PPLH Law regarding compensation, it reads that:

"Every person responsible for a business and/or activity that commits an unlawful act in the form of pollution and/or destruction of the environment which causes harm to other people or the environment is obliged to pay compensation and/or take certain actions."

Regarding the types of compensation regarding pollution and/or damage, the provisions are also regulated in the Minister of Environment Regulation Number 13 of 2011 concerning Compensation for Damages Due to Environmental Pollution and/or Damage, hereinafter referred to as (Permen of the Environment No. 13 of 2011), which includes:

a. Losses due to non-implementation of waste water treatment obligations, emissions and/or management of hazardous and toxic waste materials; or
b. Losses to compensate for the costs of dealing with pollution and/or environmental damage as well as environmental restoration;

c. Losses to compensate for the costs of verifying complaints, inventory of environmental disputes, and costs of monitoring the payment of compensation and implementation of certain actions;
   i. Countermeasures
   ii. Restoration
d. Ecosystem losses or losses due to loss of biodiversity and decreased environmental functions, and/or;
e. Losses to society due to environmental pollution and/or damage.[26]

The application of criminal sanctions in the characteristics of environmental damage as regulated in the PPLH Law is related to*last resort* namely criminal law enforcement as a last resort after administrative law enforcement has been carried out but was unsuccessful, but it is a principle*last resort* This is only applied to certain formal criminal acts such as punishment for violations of waste water quality standards, emissions and disturbances, apart from formal criminal acts, namely material, then what is applied is no longer a principle.*last resort* but*premium remedy*.[27] The function of criminal law as*last resort* in the PPLH Law, as regulated in Article 78 of the PPLH Law and Article 100 paragraph (2) of the PPLH Law, Article 78 of the PPLH Law reads that:

"Administrative sanctions as intended in Article 76 do not absolve the person responsible for the business and/or activity from recovery and criminal responsibility"

Article 76 paragraph (2) of the PPLH Law regarding administrative sanctions referred to in Article 78 reads:

"written warning, government coercion, suspension of environmental permits and revocation of environmental permits"

Application of criminal law as*last resort* in Article 100 paragraph (2) which reads that:

"criminal acts as intended in paragraph (1) can only be imposed if the administrative sanctions that have been imposed are not complied with or the violation is committed more than once"

Based on this, environmental offenses related to the application of criminal law are:*last resort* in Article 100 paragraph (2) only applies to violations in Article 100 paragraph (1) of the PPLH Law which reads that:

"Any person who violates waste water quality standards, emission quality standards, or nuisance quality standards shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of Rp. 1,000,000,000.00 (one billion rupiah)"

The Panel of Judges' Consideration of Article Elements in the Indictment

As considered by the Panel of Judges regarding the elements in the first and second indictment related to Article 89 paragraph (1) in conjunction with Article 17 paragraph (1) letter b of the P3H Law, namely as follows:

1) Individual elements

The Panel of Judges was of the opinion that "considering that in Article 1 number 21 of the P3H Law it is stated that every person is an individual and/or corporation who commits acts of organized forest destruction in the Indonesian jurisdiction and/or has legal consequences in the Indonesian jurisdiction, so that the individual who referred to is every person as a special individual legal subject, not a corporation who is suspected of committing a criminal act according to this law and/or as a Defendant in this case, considering that at the trial a Defendant in this case was presented whose name was Ahmad Rudi Hartono, who after examined, it turned out to be correct and in accordance with the identity of the Defendant in the Public Prosecutor's indictment, and was also confirmed by the witnesses in this case, thereby giving rise to confidence for the Panel of Judges that what is meant by each person in this case is the Defendant as an individual as mentioned above, with Thus, the individual element has been fulfilled."

2) Elements On Purpose

The Panel of Judges was of the opinion that "what is meant by deliberate in the Big Indonesian Dictionary (KBBI) is intended or planned, it was intended that way, not coincidentally, similar to that is the opinion of Von Hippel (1903) as quoted by Derkje Hazenwinkel-Suringa who states that intentionally is a desired result as envisioned as a goal, considering that in the theory commonly followed by legal experts there are 3 (three) forms of intentionality, namely*the first* deliberate with purpose (*intention as an objective*) is an action that is carried out or a result occurs that is the intention of the perpetrator.*The second* intentionality with certainty (*intention in certainty consciousness*) this kind of intentionality exists if the perpetrator with his actions does not aim to achieve the result that is the basis of the offense, but he knows very well that this result will definitely follow the act.*The third* intentionality with possibility (*intention in possibility consciousness*) if by carrying out an action or the occurrence of a desired result, one realizes that there is a possibility that another result will arise. "Considering that in this way, this intentional element can only be considered after the Panel of Judges has assessed the material conduct elements of the articles of the indictment."

The Panel of Judges was of the opinion that considering that based on the legal facts revealed at trial, the Defendant was arrested because he was suspected of carrying out illegal logging in the Sendiki Forest Area, Malang Regency, when he was stopped by the Gakkum Team. Considering that in connection with the opinion of expert Sulka Wijaya, the Defendant's actions in carrying out land dredging must be carried out after obtaining prior permission from the authorities for this in accordance with the provisions of the applicable laws, in this case it has been stated explicitly, namely from the Minister because it was carried out in the forest area.Considering that what is meant by forest area is a certain area determined by the Government to be maintained as permanent forest (vide Article 1 point 2 of the P3H Law) the next question is whether the location is included in a forest area. Considering that after a more thorough investigation of several legal products related to forest area decision letter data.Considering that based on the legal facts revealed at trial, the Defendant did not have a permit to carry out mining in the forest area because the Defendant's actions were personal actions, not in the name of Gapoktanhut Tani Makmur and that was not a permit to carry out mining in the forest area, therefore this element is stated has been fulfilled.

As considered by the Panel of Judges regarding the elements in the second and first indictment related to Article 98 paragraph (1) of the PPLH Law, namely as follows:

1) Every Person's Element

The Panel of Judges was of the opinion that "the elements of each person in this case are the same as the first indictment as has been considered, so that with the same consideration, the elements of each person in the second and first indictment are also declared to have been fulfilled."

2) Elements On Purpose

The Panel of Judges is of the opinion "considering that this element is also the same as the deliberate element in the first and second indictment which has been considered above, but is different in the material acts that are prohibited, that on the same theoretical basis, this element of the indictment will be considered after the Panel of Judges has considered the act material prohibited in the next element".

Considering that the results of expert analysis by Dr. Dadan Mulyana, S.Hut., M.si., that the tree felling activities carried out by the Defendant in the Sendiki area have caused environmental damage in the form of damage to the landscape and the formation of holes from land extraction and loss of structure and composition so that the protected forest loses its function Basically, it protects the life support system to regulate water management, prevent flooding, control erosion, prevent sea water intrusion, and maintain soil fertility. Thus, it can be concluded that the Defendant's actions have resulted in exceeding the standard criteria for environmental damage and were carried out intentionally as in the previous element.Considering that the Panel of Judges found the Defendant's position as Chairman of the Forest Farmers Group Association, meaning that the Defendant was the most senior person in the farmer group association in Batu Beriga Village, a person who was respected for certain reasons, it could be because of knowledge, social status or because of education or something else. , so that in connection with the theory above, it can be confirmed or at least possible that the Defendant's actions in dredging the landfill will result in exceeding the

standards for environmental damage, so that the Defendant's actions are categorized as intentional.Considering that in this way all the elements in the first second indictment of the Public Prosecutor have been fulfilled, so that the Court believes that the Defendant has been legally and convincingly proven to have committed the criminal act as stated in the second first indictment of the Public Prosecutor, thus the Defendant's actions have been legally and convincingly proven to have committed criminal offenses in the second first indictment and in the second first indictment."

System for Formulating Criminal Sanctions

In criminal law, it is related to the formulation of criminal sanctions (*Type of punishment*) is a stage of legislative policy that is prepared strategically. If there is an error in the formulation of criminal sanctions, this will have an impact on the application and execution or administration stages.[28]

There are several types of systems for formulating criminal sanctions, namely in this case consisting of:

1) A single or imperative formulation system, which means that the type of crime formulated or applied is the only crime that is related to the criminal act committed. In this case, this single formulation can include only imprisonment or imprisonment or only a fine.
2) The alternative formulation system, which means that the type of prison sentence is used as an alternative formulation of criminal sanctions, is based on the sequence of types of punishment from the heaviest to the lightest. Apart from that, judges are also given the authority to determine the type of punishment that will be used in relation to the article in question.
3) The cumulative formulation system, which specifically has characteristics related to criminal threats. This is based on editorial, namely that there is the conjunction "and" for example in the sentence "imprisonment and fine".
4) The alternative-cumulative formulation system, which is defined as a mixed or combined formulation, in the formulation of the cumulative alternative system is that there are supporting aspects, namely related to the presence of cumulative aspects in it which have an impact on the logical consequences of the cumulative formulation material, marked by the special characteristic of the word relationship "and "In its use, then there is an alternative formulation aspect, this is marked by the presence of words that are selective in the alternative formulation and there is a single formulation aspect in it.[29]

In the case of environmental damage as stated in the Malang District Court decision Number: 76/Pid.B/LH/2022/PN Mlg. that in relation to the sentence formulation system used by the Panel of Judges it is related to cumulative formulation, this can be found in point 2 (two) of the ruling which reads: "*Sentenced the Defendant as mentioned above to imprisonment for 4 (four) years and 6 (six) months and a fine of Rp. 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced by imprisonment for 6 (six) months*".

Because there is the conjunction "and" which is a special characteristic in the cumulative formulation system, this indicates that the Defendant has an obligation to carry out a prison sentence and pay the fine that has been imposed on him.

IV. CONCLUSIONS AND SUGGESTION

Conclusion

Based on the analysis carried out in the discussion of the previous chapters, the author can conclude as follows:

1. That in determining whether damage to protected forests has occurred, one must first know the qualifications for the criminal act of environmental damage that has been committed. Based on the elements of criminal acts, they include:*the first*, the existence of a subject, in this case the subject is to be asked for a form of criminal responsibility.*The second* The element of error is knowing that the criminal act has been committed.*The third*, the act carried out is unlawful, that is, it violates the

provisions in Article 89 paragraph (1) letter a jo. Article 17 paragraph (1) letter b of the P3H Law is related to carrying out mining activities in forest areas without the Minister's permission and Article 98 paragraph (1) of the PPLH Law is related to causing damage by exceeding ambient air quality standards, water quality standards, sea water quality standards , or standard criteria for environmental damage and violators of these statutory provisions are subject to criminal penalties, namely in the form of the application of criminal sanctions.

2. Because the criminal acts committed by the Defendant were more than 1 (one) act, this shows that they occurred simultaneously (*collision*), type of*collision* which is appropriate to this matter is related to*a real collision* or interpreted as a combination of acts, namely that each act carried out is a different act from one another, namely the absence of permission from the Minister to carry out mining in a forest area and the act of causing damage by exceeding quality standards. Due to the existence of 2 (two) statutory regulations that were violated by the Defendant, each of which carries a penalty of 3 (years) imprisonment, the Panel of Judges themselves in their decision imposed sanctions on the Defendant with a prison sentence of 4 (four) years 6 (six) months, this is in accordance with the provisions in*a real collision* namely by adding a third of the criminal threat.

Suggestion

Because the case in the decision of the Malang District Court Number: 76/Pid.B/LH/2022/PN Mlg is that the Panel of Judges imposed multiple sentences on the Defendant who had caused a case of environmental destruction, this is a historic decision in Indonesia because for the first time against the defendant Destruction of the environment, especially forests, is subject to multiple penalties, this proves that the Panel of Judges has a very high concern for the environment, especially forests, whose existence should be protected because it will have many benefits between generations. Therefore, the author hopes that this can be an inspiration for other Panels of Judges to care more about enforcing natural resource laws in Indonesia solely to preserve natural resources in Indonesia.

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