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# Analysis of Judicial Considerations in Deciding on the Seizure and Return of Evidence of Illegal Logging

(Case Study of Decision Number 54/Pid.B/LH/2017/PNTjt and Decision Number 27/Pid.B/LH/2024/PN Plj)

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## ABSTRACT

Illegal logging is one of the most prevalent environmental crimes occurring in Indonesia. One critical aspect in its legal enforcement is the seizure and return of evidence, particularly transport equipment used in the commission of the crime. This study aims to analyze the judges' considerations in deciding on the seizure and return of transport equipment as evidence in illegal logging cases, as well as to understand the legal procedures based on applicable regulations. This research employs a normative juridical method with statutory, case, comparative, and conceptual approaches. The data used are secondary data, including court decisions Number 27/Pid.B/LH/2024/PN Plj and Number 54/Pid.B/LH/2017/PN Tjt, along with legal instruments such as Law Number 41 of 1999 concerning Forestry and Supreme Court Circular Number 1 of 2008. In case No. 54/Pid.B/LH/2017, the panel of judges referred to Article 78 paragraph (15) of Law No. 41 of 1999 concerning Forestry, which stipulates that means of transportation used in committing a crime can be confiscated by the state. Therefore, in this case, the means of transportation used by the defendant was seized by the state. Conversely, in case No. 27/Pid.B/LH/2024/PN Plj, the panel of judges adopted a different legal consideration. In its ruling, the court ruled that the means of transportation be returned to the defendant, arguing that the economic value of the means of transportation was disproportionate to the state's losses, thus depriving the defendant of the confiscation of the means of transportation. This discrepancy raises questions about the certainty and fairness of the law in applying sanctions regarding the seizure of evidence.

## KEYWORDS

Judicial Considerations; Evidence; Illegal Logging; Transportasion Tools; Confiscation



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## INTRODUCTION

Indonesia is a country with vast forest resources. In fact, it is recognized as the third largest forest owner in the world. Given this enormous potential, it is not surprising that the Indonesian government has made the forestry sector one of the main pillars supporting national economic growth.<sup>1</sup> The definition of forest itself, according to Law No. 41 of 1999 concerning Forestry, is “an ecosystem in the form of an expanse of land containing natural biological resources dominated by trees in a natural environment where one element cannot be separated from another.”<sup>2</sup>

Despite its significant economic potential, Indonesia's forestry sector is not immune to various challenges, particularly those related to forestry crimes. One of the most damaging and difficult crimes to eradicate is illegal logging. This illicit activity often occurs in forest areas with minimal supervision, allowing perpetrators to operate freely.<sup>3</sup> The impact is devastating, causing not only massive ecological damage but also financial losses to the state amounting to tens of trillions of rupiah. Legally, illegal logging is defined in Article 50 paragraph (3) letter e of Law Number 41 of 1999 concerning Forestry as the act of “cutting down trees or collecting forest products without having the rights or permission from the competent authorities.”<sup>4</sup>

To address the losses caused by this crime, the Indonesian legal system has established strict sanctions, including the confiscation of evidence of transportation used in forestry crimes.<sup>5</sup> Article 78 paragraph (15) of Law Number 41 of 1999 clearly states that “all forest products resulting from crimes and violations and/or tools, including means of transport, used to commit crimes and/or violations as referred to in this article shall be confiscated by the state.”<sup>6</sup> This provision is reinforced by Supreme Court Circular Letter No. 1 of 2008 concerning Guidelines for Handling Forestry Crime Cases, which emphasizes that the confiscation of transportation equipment is an important reference for judges in imposing sanctions.<sup>7</sup>

However, in practice, the application of sanctions involving the confiscation of evidence in the form of vehicles in illegal logging cases still shows disparities in verdicts. This is clearly evident from a comparison between the decision of the Punjung District Court No. 27/Pid.B/LH/2024/PN Plj and the decision of the Tanjung Jabung Timur District Court No. 54/Pid.B/LH/2017/PN Tjt. In the Pulau Punjung District Court Decision, even though the defendant was proven to have

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<sup>1</sup> Napitupulu, I Dewa Ayu W & Widayani Diana R, *Buku Materi Pembelajaran Hukum Agraria*, 1st ed (Jakarta: Universitas Kristen Indonesia, 2022).

<sup>2</sup> Agung Zulkarnain, Tita Kartikasari & Rizky Aulia Ammar, “Permintaan di Tengah Krisis Ekonomi” *Univ Islam Negeri Palopo* (2024) 12.

<sup>3</sup> Anindya Pramitaqwati & Emy Rosnawati, “Analisis Putusan Pembalakan Liar Terhadap Hutan Lindung di Indonesia” (2024) 2:1 *Indones J Law Justice* 13.

<sup>4</sup> Meilana Widyaningsih, “Perlindungan Hukum Terhadap Hutan dari Kegiatan Pembalakan Liar” (2022) *J Perlindungan Huk Terhadap Hutan dari Kegiat Pembalakan Liar*.

<sup>5</sup> Fathul Hamdani et al, “Persoalan Lingkungan Hidup dalam UU Cipta Kerja dan Arah Perbaikannya Pasca Putusan MK Nomor 91/PUU-XVIII/2020” (2022) 3:4 *J Indones Berdaya* 977-986.

<sup>6</sup> Olivia Anggie Johar, M Yusuf Daeng & Novitasari Manihuruk Tri, “Pertanggungjawaban Pidana Pencemaran Dan Perusakan Lingkungan Hidup Akibat Pembakaran Hutan Dan Lahan Di Provinsi Riau” (2022) 21:2 *J Huk Respublica Fak Huk Univ Lancang Kuning* 134-154.

<sup>7</sup> Hadi Setia Tunggal, *Undang-Undang Nomor 41 Tahun 1999 Tentang kehutanan* (Jakarta: Harvarindo, 2022).



transported illegal timber, the panel of judges decided to return the evidence in the form of a truck to the defendant. This decision clearly contradicts the spirit of Article 78 paragraph (15) of Law Number 41 of 1999. In contrast, the Tanjung Jabung Timur District Court's decision in a similar case consistently ordered the confiscation of the means of transport (keting-ting) for the state, in accordance with applicable legal provisions.

The striking difference in the determination of the status of evidence of transportation between the two verdicts, one returned and the other confiscated, raises significant legal issues that warrant further study. This disparity raises fundamental questions about the legal considerations used by judges in deciding the fate of evidence in forestry crimes. Therefore, this study aims to conduct a comparative analysis of the judges' considerations in deciding the confiscation and return of evidence of illegal logging, using the Pulau Punjung District Court Decision Number 27/Pid.B/LH/2024/PN Plj and the Tanjung Jabung Timur District Court Decision Number 54/Pid.B/LH/2017/PN Tjt as the main case studies. It is hoped that this analysis will provide a deeper understanding of the implementation of the law and the consistency of law enforcement in handling forestry crimes in Indonesia.

## METHOD

This study uses normative legal research, which focuses on the study of law as a system of norms. This approach allows for analysis of legal principles, rules, and doctrines to answer existing problems. To support this analysis, this study combines several approaches, namely the statute approach to analyze forestry-related regulations; the case approach to understand the ratio decidendi of both decisions; the comparative approach to identify differences in the judges' considerations; and the conceptual approach to examine the relevant legal doctrines. The scope of this study focuses on the disparity in the judges' decisions regarding the status of evidence of transportation in illegal logging cases, with a focus on the two court decisions mentioned above.<sup>8</sup> The research data sources consist of primary data, which includes both court decisions, Law Number 41 of 1999, Law Number 18 of 2013, Supreme Court Circular Letter Number 1 of 2008, the Criminal Code, and the Criminal Procedure Code; as well as secondary data, which includes law books, scientific journals, and relevant previous research.<sup>9</sup> The main data collection technique used was library research, which involved searching and analyzing various written sources. All of the data collected was then analyzed using qualitative data analysis techniques, in which the data was described in a descriptive, comprehensive, and systematic manner in the form of a narrative to produce in-depth interpretations and solid legal arguments.<sup>10</sup>

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<sup>8</sup> Wiwik Sri Widiarty, *Buku Ajar Metode Penelitian* (Yogyakarta: Publika Global Media, 2024).

<sup>9</sup> Silvi Yuniardi, "Penyelesaian Sengketa Perbankan Syariah Berdasarkan Undang-Undang Nomor 21 Tahun 2008 Tentang Perbankan Syariah Pasca Keputusan Mahkamah Konstitusi No 93/PUU-X/2012 dihubungkan Dengan Asas Kepastian Hukum (Studi Kasus Putusan No.28/PDT.G/2018PT.BDG)" (2020) 2:2 Nurani Huk 35.

<sup>10</sup> Nanang Faisol Hadi & Nur Kholik Afandi, "Literature Review is A Part of Research" (2021) 1:3 Sultra Educ J 64-71.



## RESULT & DISCUSSION

This section presents the results of research and discussion on the disparity in judges' decisions regarding the status of evidence of vehicles in illegal logging crimes, focusing on a comparative analysis between the Decision of the Pulau Punjung District Court Number 27/Pid.B/LH/2024/PN Plj and the Decision of the Tanjung Jabung Timur District Court Number 54/Pid.B/LH/2017/PN Tjt. Based on data from the Case Tracking Information System (SIPP) of the Pulau Punjung District Court, it appears that illegal logging cases are one of the most prevalent types of forestry crimes. From 2019 to 2024, 18 cases were decided with various verdicts, mainly related to the confiscation of evidence of transportation equipment. An overview of these cases can be seen in Table 1 below:

**Table 1.** Illegal Logging Cases in the Jurisdiction of the Pulau Punjung District Court (2019-2024)

| No. | Nomor Perkara             | Barang Bukti | Status                    |
|-----|---------------------------|--------------|---------------------------|
| 1.  | 18/Pid.B/LH/2019/PN Plj   | Car          | Confiscated for the State |
| 2.  | 17/Pid.B/LH/2019/PN Plj   | Car          | Confiscated for the State |
| 3.  | 50/Pid.B/LH/2019/PN Plj   | Car          | Confiscated for the State |
| 4.  | 60/Pid.B/LH/2019/PN Plj   | Car          | Confiscated for the State |
| 5.  | 28/Pid.B/LH/2020/PN Plj   | Car          | Confiscated for the State |
| 6.  | 56/Pid.B/LH/2020/PN Plj   | Car          | Confiscated for the State |
| 7.  | 7/Pid.B/LH/2020/PN Plj    | Car          | Confiscated for the State |
| 8.  | 6/Pid.B/LH/2021/PN Plj    | Car          | Confiscated for the State |
| 9.  | 86/Pid.B/LH/2021/PN Plj   | Car          | Confiscated for the State |
| 10. | 98/Pid.B/LH/2021/PN Plj   | Car          | Confiscated for the State |
| 11. | 105/Pid.B/LH/2021/PN Plj  | Car          | Confiscated for the State |
| 12. | 55/Pid.B/LH/2022/PN Plj   | Car          | Confiscated for the State |
| 13. | 116/Pid.B/LH/2023/PN Plj  | Car          | Confiscated for the State |
| 14. | 127/Pid.B/LH/2023/PN Plj  | Car          | Confiscated for the State |
| 15. | 129/Pid.B/LH/2024/PN Plj  | Car          | Confiscated for the State |
| 16. | 27/Pid.B/LH/2024/PN Plj   | Car          | Returned to the defendant |
| 17. | 75/Pid.Sus/LH/2024/PN Plj | Car          | Confiscated for the State |



|     |                           |     |                           |
|-----|---------------------------|-----|---------------------------|
| 18. | 77/Pid.Sus/LH/2024/PN Plj | Car | Confiscated for the State |
|-----|---------------------------|-----|---------------------------|

**Data Source:** Case Tracking Information System of the Pulau Punjung District Court (Processed by the Author, 2025).

From Table 1, it can be seen that most illegal logging cases handled by the Pulau Punjung District Court resulted in the confiscation of transportation equipment for the state. However, one case stands out, namely Case Number 27/Pid.B/LH/2024/PN Plj, in which the transportation equipment was returned to the defendant. This is the main focus of comparison in this study, as it shows a deviation from common practice and legal provisions.

In Decision Number 27/Pid.B/LH/2024/PN Plj, the defendant Ridmon alias Mon bin (late) Syahrial was proven legally and convincingly to have participated in the transportation of timber without valid forest product documentation. The public prosecutor demanded a prison sentence of 1 (one) year and 2 (two) months, a fine of Rp 1,000,000,000.00 (one billion Rupiah), as well as the confiscation and destruction of evidence, including the means of transport. However, the Panel of Judges at the Punjung Island District Court, in its verdict, sentenced the defendant to 1 (one) year imprisonment and a fine of Rp 1,000,000,000.00 (one billion Rupiah), with a subsidiary penalty of 2 (two) months imprisonment. However, regarding the evidence, the Panel of Judges ruled that one (1) red Hino Jember tronton truck with license plate number BA 8483 JP and the ignition key be returned to the defendant. This decision clearly contradicts the spirit of Article 78(15) of Law No. 41 of 1999 on Forestry, which imperatively states that all tools used to commit forestry crimes must be confiscated by the state.

As a comparison, an analysis of the Tanjung Jabung Timur District Court Decision Number 54/Pid.B/LH/2017/PN Tjt shows consistency in the application of the law. In this case, the defendant Bambang Als Wiji Bin Kasto Lani (deceased) was also proven to have transported timber without a valid forest product certificate. The public prosecutor charged the defendant and demanded a prison sentence of 1 (one) year and 6 (six) months, a fine of Rp 1,000,000,000.00 (one billion Rupiah), and confiscation of the means of transport. The panel of judges at the Tanjung Jabung Timur District Court, in its verdict, sentenced the defendant to 1 (one) year imprisonment and a fine of Rp 500,000,000.00 (five hundred million Rupiah), with a subsidiary penalty of 3 (three) months imprisonment. Most importantly, the Panel of Judges ruled that the evidence, namely 1 (one) unit of keting-ting, be confiscated by the state. This verdict is fully in line with the provisions of Article 78 paragraph (15) of Law Number 41 of 1999 and Supreme Court Circular Letter (SEMA) Number 1 of 2008 concerning Guidelines for Handling Forestry Crime Cases, which emphasizes the importance of confiscating means of transportation as part of the sanctions.

The striking difference between these two verdicts indicates a difference in the judges' considerations, even though they dealt with the same type of crime and a similar legal basis. The authority of judges to decide cases, including determining the status of evidence, is indeed regulated in the Criminal Procedure Code (KUHP), but it must remain within the corridor of applicable laws and regulations. Article 78 paragraph (15) of Law Number 41 of 1999 explicitly mandates the confiscation of



transportation equipment as a deterrent, to prevent the recurrence of crime, and to recover state losses. In the case of the Tanjung Jabung Timur District Court, the judge consistently applied the principle of legality and the objective of eradicating forestry crimes. The confiscation of means of transportation, such as *keting-ting*, not only serves as a punishment but also as a preventive measure to break the chain of illegal logging operations. Conversely, the decision of the Panel of Judges at the Pulau Punjung District Court to return the truck to the defendant can be interpreted as a consideration that may be based on the principle of benefit to the defendant individually or other considerations that are not explicitly explained in the decision, such as the possibility that the means of transportation did not directly belong to the defendant. However, regardless of the judges' internal considerations, this decision has the potential to weaken the deterrent effect of criminal sanctions for forestry crimes and create loopholes for illegal loggers in the future.

This difference in rulings has serious implications for the effectiveness of law enforcement against illegal logging in Indonesia. First, it reduces the deterrent effect, as perpetrators may feel that the risk of losing their instruments of crime is not too great. Second, it creates legal uncertainty among law enforcement officials and the public, which can hamper coordination in efforts to eradicate forestry crimes. Third, the return of transport vehicles means that the state loses potential assets that could be utilized, and indirectly reduces efforts to recover losses due to forest damage. Therefore, it is important for judicial institutions, particularly the Supreme Court, to continue to strengthen guidelines and jurisprudence related to the confiscation of transportation equipment as evidence in forestry crimes. This is crucial to ensure consistency in law enforcement, maintain legal certainty, and strengthen efforts to protect forests, which are vital assets of the state.<sup>11</sup>

## CONCLUSION

Based on the analysis of research results and discussions regarding the disparity in judges' decisions in criminal cases of illegal logging related to the seizure and return of evidence of transportation equipment, several conclusions can be drawn. The panel of judges at the Pulau Punjung District Court Number 27/Pid.B/LH/2024/PN Plj and the Tanjung Jabung Timur District Court Number 54/Pid.B/LH/2017/PN Tjt generally based their considerations on legal aspects, trial facts, and sociological considerations. The legal considerations included the elements of the offense under Article 88 paragraph (1) letter a of Law Number 41 of 1999 concerning Forestry in conjunction with Article 55 paragraph (1) of the Criminal Code, which were supported by evidence such as witness statements, expert testimony, and legal facts revealed during the trial. Meanwhile, sociological considerations refer to matters that aggravate and mitigate the defendant's case. From a comparison of the two decisions, it can be concluded that the judge's considerations in the East Tanjung Jabung District Court Decision Number 54/Pid.B/LH/2017/PN Tjt were appropriate and consistent. The judge in the court has fully complied with the provisions of Article 78 paragraph (15) of Law Number 41 of 1999 concerning Forestry and Supreme Court Circular Letter Number 1 of 2008 concerning

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<sup>11</sup> Iswan Kaputra et al, *Dampak Otonomi Daerah di Indonesia*, 1st ed (Jakarta: Yayasan Pustaka Obor Indonesia, 2013).



Guidelines for Handling Forestry Crime Cases, which explicitly mandates the confiscation of means of transportation used in forestry crimes for the state. This confiscation decision is in line with efforts to provide a deterrent effect and protect the interests of the state.

However, there is a significant difference in the Decision of the Pulau Punjung District Court Number 27/Pid.B/LH/2024/PN Plj. Although the defendant was proven to have committed a forestry crime, the judge in this decision considered that the economic value of one (1) unit of transportation equipment (a tronton truck) was not comparable to the losses suffered by the state. Based on these considerations, the judge decided to return the transport vehicle as evidence to the defendant. This consideration, although it may be based on the principle of benefit or individual justice, substantially contradicts the spirit of Article 78 paragraph (15) of Law Number 41 of 1999 and SEMA Number 1 of 2008, which has the potential to reduce the deterrent effect and create legal uncertainty in the enforcement of illegal logging criminal law.

### **DECLARATION OF CONFLICTING INTERESTS**

The authors state that there is no conflict of interest in the publication of this article.

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