

PENGARUH PUTUSAN HAKIM TERHADAP PENYIDIKAN TINDAK PIDANA PENAMBANGAN ILEGAL DI POLRES KULONPROGO

INTISARI

Anton¹ Marcus Priyo Gunarto²

Penelitian ini bertujuan untuk mengetahui dan menganalisis putusan hakim terhadap kasus penambangan ilegal di Polres Kulonprogo dan pengaruh putusan hakim terhadap penyidikan tindak pidana penambangan ilegal yang terjadi di Polres Kulonprogo.

Metode penelitian yang digunakan adalah penelitian hukum normatif yakni dengan mengkaji data skunder yang berasal dari bahan hukum primer berupa perundang-undangan dan putusan pengadilan; bahan hukum skunder berupa hasil karya para ahli hukum dalam bentuk buku dan jurnal; dan bahan hukum tertier berupa kamus hukum dan kamus bahasa Indonesia. Penelitian ini juga ditunjang dengan hasil wawancara terhadap narasumber yakni hakim, polisi dan juga masyarakat. Analisis data dalam penelitian ini dilakukan secara kualitatif dan hasilnya disampaikan secara deskriptif.

Hasil penelitian menunjukkan bahwa: Pertama, Putusan hakim terhadap pelaku tindak pidana penambangan ilegal yang terjadi di wilayah hukum Polres Kulonprogo berupa putusan pemidanaan dengan rata-rata vonis percobaan dan relatif rendah sehingga kurang memberi efek jera di masyarakat. Dalam penyidikan hanya diterapkan pasal yang diatur dalam Undang- Undang nomor 4 tahun 2009 tentang pertambangan mineral dan batubara yaitu melakukan penambangan tanpa Izin Usaha Pertambangan (IUP), Izin Usaha Pertambangan Rakyat (IUPR) dan Izin Usaha Pertambangan Khusus (IUPK). Semestinya penyidik menambah unsur-unsur pasal yang diatur dalam undang- undang terkait lainnya sehingga putusannya bisa lebih maksimal. Selain itu hakim harus mempedomani Surat Edaran Mahkamah Agung nomor 1 tahun 2000 tentang Pemidanaan Agar Setimpal dengan Berat dan Sifat Kejahatannya karena penambangan ilegal sudah pasti merusak lingkungan dan sekitarnya sehingga tidak menyinggung rasa keadilan yang ada di dalam masyarakat. Kedua, Putusan hakim tersebut berpengaruh terhadap penyidikan tindak pidana penambangan ilegal di Kulonprogo dikarenakan banyaknya kasus penambangan yang masih marak terjadi karena rata- rata semua kasus penambangan ilegal divonis pidana percobaan sehingga masyarakat menganggap penambangan ilegal bukan merupakan tindak pidana yang bersifat serius.

Kata Kunci: Penambangan Ilegal, Penyidikan, Putusan Hakim.

¹ Mahasiswa Magister Hukum Litigasi, Program Pascasarjana, Fakultas Hukum, Universitas Gadjah Mada, Angkatan 2015.

² Dosen di Fakultas Hukum Universitas Gadjah Mada.

IMPLICATION OF JUDICIAL DECISIONS ON INVESTIGATION OF ILLEGAL MINES IN KEPOLISIAN RESOR KULONPROGO

ABSTRACT

Anton³ Marcus Priyo Gunarto⁴

This study aims to find out how the judge's decision on illegal mining cases in Polres Kulonprogo and to determine the implication of judicial decisions on investigation of illegal mines that occurred in Polres Kulonprogo.

The research method used was normative legal research by examining secondary data derived from primary legal materials in the form of legislation and court decision; Secondary legal materials in the form of works of jurists in the form of books and journals; And tertiary legal materials in the form of legal dictionaries and Indonesian dictionary. This research was also supported by interviews with certain persons namely judges, investigators and citizen. Data analysis in this research was done qualitatively and the result was presented descriptively.

The results of the study show that: First, the judge's decision on the perpetrators of illegal mining that occurred in the jurisdiction of the Kulonprogo District Police was in the form of convictions with an average trial sentence and relatively low so that they did not have a deterrent effect in the community. In the investigation, only the articles regulated in Law number 4 / 2009 concerning mineral and coal mining are applied, namely mining without Mining Business Permit (IUP), People Mining Business License (IUPR) and Special Mining Business Permit (IUPK). Investigators should add to the elements of articles regulated in other relevant laws so that their decisions can be maximized. In addition, the judge must guide the Supreme Court Circular number 1 / 2000 concerning Criminalization to be in line with the weight and nature of his crime because illegal mining is certainly damaging to the environment and surroundings so as not to offend the sense of justice that exists in the community. Second, the judge's decision affected the investigation of criminal acts of illegal mining in Kulonprogo due to the large number of mining cases that were still rampant because on average all illegal mining cases were sentenced to criminal trials so that the community considered illegal mining was not a serious crime.

Keywords: Illegal Mining, Investigation, Judge Decision.

³ Mahasiswa Magister Hukum Litigasi, Program Pascasarjana, Fakultas Hukum, Universitas Gadjah Mada, Angkatan 2015.

⁴ Dosen di Fakultas Hukum Universitas Gadjah Mada.