Execution of environmental civil court decisions in Indonesia

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ABSTRACT
The ultimate act of the environmental law enforcement procedure in the Court is the execution of court rulings addressing environmental civil disputes. The Plaintiff sincerely hopes that the court's ruling will be effectively implemented, restoring environmental rights that have been harmed or polluted, as well as the rights of communities impacted by environmental damage and pollution. However, due to a variety of variables, recompense in the form of compensation and environmental restoration efforts may not be possible in some cases. The major invoice is about regulations guiding the execution procedure, which still refer to normal civil procedural statutes that have nothing to do with environmental civil problems. Due to the difficulty in obtaining information on the defendant's holdings, no assets or assets were confiscated as collateral during the execution of the verdict. Another stumbling block is the lack of clear legislation controlling the coordination of organizations involved in enforcing court rulings in environmental civil cases. Environmental law has unique features that make it important to make sure that the process for implementing court orders for compensation or environmental restoration is set up in a way that fits those features. This means that a special institution should be in charge of implementing environmental civil decisions.

Keywords: civil cases, court decision, environment, enforcement, execution.

1 INTRODUCTION

Environmental law enforcement can be divided into three categories: (i) administrative environmental law enforcement; (ii) criminal environmental law enforcement; and (iii) civil enforcement.
environmental law enforcement. In the framework of implementing civil environmental legislation, it starts with a traditional civil lawsuit or litigation brought by a party that has been affected as a result of pollution or destruction of the environment. These cases could be class actions, or they could be individual lawsuits.\textsuperscript{2} Environmental Organizations' Lawsuits,\textsuperscript{3} The right to sue the government/local government for compensation and/or corrective action,\textsuperscript{4} as well as the right to pay compelled money\textsuperscript{5} for judicial and extrajudicial dispute resolution.\textsuperscript{6}

The implementation of court decisions or executions in Indonesia relating to the imposition of civil sanctions on perpetrators of environmental pollution and destruction in order to fulfill compensation or environmental restoration actions due to environmental pollution and destruction by individuals or corporations is examined in this paper. Because, in reality, not all court judgements involving civil disputes that include compensation and environmental restoration efforts can be adequately implemented. If the facts are correct, only 18 of the 73 court decisions on environmental damage and pollution that were made in civil disputes can be implemented.\textsuperscript{7} Similarly, material compensation awarded by the court can range from Rp. 100 billion to Rp. 1 trillion, but not all of it can be implemented. A sanction of Rp. 1 billion to Rp 50 billion was imposed in another judgement.\textsuperscript{8} The defendants, on the other hand, were unable to carry out or obey this ruling.

Furthermore, according to data from the Ministry of Environment and Forestry submitted by the Director General of Environmental Law Enforcement, Ratio Ridho Sani in a Hearing Meeting with Commission IV DPR RI on February 7, 2022, compensation and environmental restoration resulting from court decisions in the case of an environment that has been inkracht or has permanent legal force, the value reaches Rp. 20 trillion.\textsuperscript{9} However, only about 131 billion RP has been spent so far of this amount.

The fundamental question is: what are the elements that prevent court judgements in environmental civil enforcement. It's called "Environmental Law in a Comparative Perspective." This book is called "Environmental Law in a Comparative Perspective." It's from Utrecht University's Institute of Constitutional and Administrative Law.


\textsuperscript{3} Environmental organizations have the right to file lawsuits in the interest of preserving environmental functions, as stated in Article 92 paragraph (1) of UUPLH 2009: "In the context of implementing the responsibility for environmental protection and management, environmental organizations have the right to file lawsuits in the interest of preserving environmental functions."

Several criteria limit the ability of environmental organizations or non-governmental organizations (NGOs) to sue under this provision: It must be a legal entity; 2) its articles of association must state that it was founded to preserve environmental functions; and 3) it must have carried out real activities in accordance with its articles of association for at least two (two) years.

\textsuperscript{4} Law No. 32 of 2009 on Environmental Protection and Management, Article 87 (UU PPLH).

\textsuperscript{5} UUPLH Article 87

\textsuperscript{6} UUPLH Article 84


\textsuperscript{8} Ibid

disputes from being implemented? As long as this goes on, the law enforcement process’s last hope, a civil case in court, won’t be able to help businesses or people who do bad things to the environment.

2 QUESTIONS OF LAW

The ultimate act of the environmental law enforcement process in court is the execution of court rulings in environmental civil cases. The parties, particularly the plaintiff, sincerely hope that the court's decision will be appropriately executed, allowing the parties' rights secured through the court's decision to be realized. However, in some situations, due to numerous variables that impact the execution of the decision so that it cannot be executed, the parties' rights, as indicated in the court's decision in the form of compensation and environmental restoration measures, cannot be carried out. The question is how the process of implementing or enforcing court decisions in Indonesia is related to environmental civil disputes. And what elements influence a court decision in an environmental civil case that makes it impossible to carry out the ruling?

3 DISCUSSION

A. Courts are used to enforce environmental civil law

Environmental civil law enforcement is linked to legal instruments that govern private (private) legal relationships between individuals. Environmental law contains a number of arguments about civil rights. For example, people have the right to a good and healthy environment, the right to run a business or do something for a living, the right to get information about the environment, the right to participate, the right to exist, and so on.

Environmental law enforcement through civil case settlement mechanisms is still largely governed by civil procedural law, as outlined in the Het Herzien Inlands Regulation (HIR), which applies to courts on the Java and Madura islands, and the Buiten Gewesten Regulation (RBg), which applies to courts outside of those islands. In addition, Law Number 32 of 2009 concerning Environmental Protection and Management (UU PPLH) regulates procedural law as well as other environmental laws and regulations such as the Forest Fires Law and others. Because the UU PPLH does not address civil procedural law in the context of environmental issues,

Civil procedural law is a type of procedural law that deals with how to uphold material or substantive law that governs civil rights. Environmental law, as is well known, is relatively new legislation, whereas civil procedural law (HIR/RBg) is a product of law hundreds of years ago, which is still a legacy of Dutch colonial products, and civil procedural law has experienced multiple revisions in the Netherlands itself. As a result, problems may arise in the application of formal law in court in this situation because the procedural law used in the context of enforcing environmental civil law lags far
behind the current development of environmental law, which has a distinct character from civil disputes in general.

It is impossible to diverge from procedural legislation since it is binding or coercive (strict) for those who apply it. In terms of procedural law's binding and coercive aspects, Sudikno Mertokusumo contends that procedural law has been forgotten by the public as a formal law that is imperative, coercive, and cannot be deviated from, and judges must submit. The procedural law, which is the game's set of rules (spelregels), must be formal, official, strict, fixed, correct, definite, and binding (binding/coercive) in order to be used. This means that the procedural law must be binding.10

Environmental civil lawsuits arise when environmental civil rights, as well as the rights of the community or community surrounding business activities that cause environmental damage, either directly or indirectly, causing harm to the environment and the community surrounding the area, are violated. The deterioration of the environment So that parties who believe their rights have been violated by individuals, corporations, or the government (in this case, the Ministry of Environment/Provincial/District/City Governments) can initiate cases. Environmental class action lawsuits, environmental non-governmental organizations, and citizen law cases are all examples of class action lawsuits (actio popularis) that are filed by people who want to help people who have been harmed by the environment.

In addition to the claims filed by these parties, the defendant or the reported or suspected in a criminal case may file a lawsuit or report back against the plaintiff or complainant, which is known as an "Anti SLAPP" lawsuit in the UU PPLH and can be filed in provisions, exceptions, or counterclaims (in civil cases) and/or defense (in criminal cases) and must be decided first.11

The Law on Environmental Management and Protection recognizes two types of lawsuits: first, liability based on fault, which is divided into two categories: "intentional" and "negligence or negligence," the element of accountability because of errors, as stated in the formulation of Article 1365 of the Civil Code.12 However, given the scope of environmental disputes, it appears that covering unlawful acts in the form of pollution and/or environmental destruction is insufficient, and that it must be seen in the context of the principles, objectives, and scope of environmental protection and management, which is the first victim, as provided by Article 1365 of the Civil Code. Humans, animals, and plants are the primary victims, whereas humans, animals, and plants are secondary victims. Second, for activities that involve

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10 Efa Laela Fakhriah, Position of Electronic Evidence as Evidence in Court after the Enactment of Law No. 11 of 2008 Concerning Electronic Information and Transactions, papers presented at a limited seminar co-hosted by the Indonesian Supreme Court Kumdid Research and Development Agency with universities on the theme "Validity of Evidence: Electronic Banking Transactions as Evidence in Court." It reopened on November 25, 2009, after Law No. 11 of 2008 was passed
11 Ibid., page 38
12 The elements of liability based on errors are as follows: a. the defendant's activities must be illegal; b. the perpetrator must be culpable; c. there must be a loss; and d. there must be a causal relationship between actions and losses.
hazardous and toxic materials (B3) and/or handle hazardous and toxic waste materials and/or represent a substantial threat to the environment, accountability without fault (absolute responsibility or strict liability), also known as liability without fault.  

In order to make it easier to pay attention to the relevant laws and regulations in the process of enforcing environmental law in court, judges must pay attention to the classification of types of cases, which have been divided into 8 (eight) types, because the substance of each type of case has characteristics and types. Adopting regulations that aren’t the same as one another, such as:

1. water pollution (surface water) as a result of numerous development sector operations (industry, mining, hotels, hospitals, and others).
2. Development sector operations cause air pollution and disturbance (noise, vibration, and odor) (industrial, mining, and other activities).
3. Importing waste, hazardous material or hazardous material waste, and managing hazardous material waste without permission, not managing hazardous material waste, or disposing of hazardous material trash
4. pollution of seawater and/or devastation of marine life (coral reefs, mangroves, and seagrass beds).
5. Damage to the environment caused by unlawful logging and forest fires
6. environmental damage as a result of mining and illicit mining.
7. There is a lot of damage to the environment because of land conversion and burning, as well as illegal plantation operations.
8. Violations of spatial planning, such as those that result in pollution and/or deterioration of the environment,

The Supreme Court of the Republic of Indonesia issued Decision Number 36/KMA/SK/II/2013 concerning the Enforcement of Guidelines for Handling Environmental Cases, recognizing that environmental cases are technical and scientific in character. Because environmental matters are sophisticated and there is a great amount of scientific information (scientific evidence), environmental judges must be willing to employ environmental protection and management concepts such as precautionary principles and judicial activism. Judges must be familiar with environmental policy

13 See, e.g., UUPPLH Article 88. According to the explanation of Article 88 UUPPLH, "absolute responsibility” or "strict liability” means that the plaintiff does not have to prove the element of error in order to receive compensation. In actions against the law in general, the requirements of this paragraph are lex specialis. According to this article, the amount of compensation that can be levied on polluters or environmental destroyers can be calculated to some extent. As long as it is determined that the business or activity in question needs insurance, or that funds are available for environmental projects.


15 There is a Decree from the Chairman of the Supreme Court of the Republic of Indonesia
principles, which include: a) substantive legal principles, b) procedural principles, and c) equitable principles.\(^{16}\)

1. Judges look at these important legal principles when they decide and rule on an environmental case:

a. The principle of environmental hazard prevention It is implemented through the licensing mechanism (including the determination of operating conditions and the consequences if they are violated), the determination of emission standards and restrictions, as well as the use of best available techniques, the implementation of initial assessments, monitoring, and providing information on the conduct of an activity that has the potential to have an environmental impact, and the implementation of initial assessments, monitoring, and providing information on the conduct of an activity that has the potential to have an environmental impact.

b. The principle of precaution Principle 15 of the Rio Declaration says that scientific opinions must be based on evidence and techniques that can be trusted and confirmed. The judge must look at the facts and decide whether the scientific opinion is based on evidence and techniques that can be trusted.\(^{17}\) This idea can be implemented by establishing the liability of people suspected of contaminating and/or harming the environment using instruments. There are two crucial factors to consider: negligence and strict responsibility.

c. The principle of polluter pay. When this principle is followed in good faith in order to prevent pollution and/or environmental destruction by selecting and implementing environmentally friendly technologies and/or policies, the government is provided tax incentives, user fees, import tax relief, and other benefits. Those who do not have good intentions, on the other hand, must be subjected to "disincentives."

d. The principle of sustainable development, which requires a good quality of life for current and future generations, as well as a balance of economic, social, and ecosystem interests, so that future generations have the same ability to obtain a quality of life as current generations,

2. Process principles

During an environmental case, a judge makes sure that good environmental law compliance and enforcement rules are being followed, such as:

a. Empowerment of the community as a whole. This principle is applied through opportunities for community participation in decision-making, access to justice if their rights are violated, and legal protection when fighting for their rights to a healthy environment, such as the application of Article

\(^{16}\) Ibid

\(^{17}\) The precautionary principle must be adopted in each country according to its capacity in order to protect the environment, according to Principle 15 of the Rio Declaration. When there is substantial or irreparable harm to the environment, the lack of scientific proof cannot be used to justify delaying actions to avert environmental degradation
66 of Law Number 32 of 2009: the right to a good and healthy environment cannot be prosecuted criminally or sued civilly (anti-SLAPP/strategic lawsuit against public participation).

b. The notion of recognizing ecosystems' carrying capacity and long-term viability This principle is used when deciding on "orders to take certain actions" so that steps to protect and/or mitigate the destruction and/or pollution of natural resources and the environment can be clearly explained. Environmental management tools, economic instruments, coercive instruments, moral sanctions, and public control are all used to do this.

c. The notion of acknowledging indigenous peoples' and neighboring communities' rights

Recognition of the rights of indigenous and local communities to natural resources and the environment in which they live, as well as to the land they live on.

d. The enforceability concept When a court punishes someone for a crime, it must think about whether the punishment will deter others from doing the same thing, strengthen the system of supervision to make sure the crime doesn't happen again, and protect the community's right to a decent and healthy environment.


Environmental justice principles must be considered by judges when reviewing and adjudicating environmental disputes, including

a. The principle of justice within one generation (intragenerational equality) and between generations (intergenerational equity)

b. Equitable distribution of shared tasks (common but differentiated responsibility).

c. If you're looking for a unique (equitable utilization of shared resources),

When the case examination is completed, the panel of judges, in accordance with the provisions of Article 178 HIR/189 Rbg, conducts deliberation to make a decision to be handed down. The court of first instance must follow a number of rules in order for its decision not to be overturned or annulled by a higher court. These rules include: First, as indicated in Article 178 paragraph 1 HIR/189 Rbg and Article 53 paragraph 2 of the Law on Judicial Power, the consideration of the judgment must include a clear and full basis of reasoning. Second, as stated in Article 178 paragraph 2 and 189 paragraph 2 RBG, all sections of the lawsuit must be tried. Third, except for the subsidiary petitum in the form of asking for a fair decision (ex quo et bono), it is not allowed to grant more than the demands stated in the posita or petitum of the lawsuit (ultra petitum partium). In environmental cases, the panel may justify adding the decision even if it was not explicitly requested by the plaintiff, with consideration of the environment and the community's interests.

For example, if the judge grants the applicant's request for compensation and "certain actions," but the applicant's claim does not specify how those actions are carried out (for example, clean-ups related to sea water pollution restoration), the ruling should include technical details such as who supervises, who implements, and other related technical issues. Fourth, the decision is made in a court session that is open to the public, as stated in Article 13 of Law No. 48 of 2009 Concerning Judicial Power.

The reasons for the litigation must, of course, be included in the court's decision in response to the petitioner's claim submitted by the Plaintiff:

1. Violations of the law (fault-based liability) It is important to establish the following elements of environmental contamination and/or destruction: 1) Intentional; and 2) Negligent Validation of causality Errors in the fight against pollution and environmental damage

2. Strict liability (liability without fault) or absolute responsibility Circumstances or conditions that arise as a result of the company's or activity's operations
   a. hazardous material -related activities,
   b. hazardous material waste management, and/or
   c. hazardous material activities posing a significant environmental risk.

In the case of a lawsuit against the law in the environmental area, a clear and precise claim is required without proof of pollution or damage to the environment, among other things:

1. stating that, as a result of his/her business/activity, the defendant has committed unlawful conduct in the form of environmental contamination and/or destruction.20

2. Make the defendant pay compensation as a penalty.21

3. At the Defendant's expense, to take certain legal actions, such as: a) installing or repairing the waste treatment unit so that the waste meets specified environmental quality standards; b) restoring environmental functions; and/or c) eliminating or destroying the causes of environmental pollution and/or destruction).

4. Appoint a supervisor to oversee and report on the execution of activities (a/b/c).

5. The defendant must pay dwangsom (forced money) for each day that the court's decision is not implemented.22 or

6. Declaring that the defendant is solely responsible or strictly liable for conducting a business or activity (using B3/and/or managing B3/and/or waste that constitutes a major environmental concern)

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20 Refer to one of the eight different types of environmental civil cases.
21 See the type of loss in the provisions of Article 3 of the Minister of Environment Regulation No. 7 of 2014 and community losses.
22 Paragraphs (3) and (4) of Article 87, UU PPLH
7. Order the defendant to make restitution.\textsuperscript{23}

8. To compel the defendant (or other parties at the defendant's expense) to take certain legal actions,\textsuperscript{24} such as: 1) installing or repairing the waste treatment unit so that the waste meets the specified environmental quality standards; 2) restoring the environment's function; and/or 3) eliminating or destroying the sources of environmental pollution and/or destruction.

B. Execution of Environmental Civil Decisions

One of the primary concerns in the environmental law enforcement process is the question of court decision implementation, which is the essence and end of the environmental civil law enforcement process with permanent legal force (inkracht van Gewijsde). However, not all long-term legal and environmental civil choices can be implemented or carried out willingly by the parties.\textsuperscript{25} Execution, on the other hand, is a follow-up procedure to the case assessment process. Execution is a unit that is inextricably linked to the implementation of the HIR's judicial procedures. The guidelines for execution procedures are governed by HIR's Chapter Ten, Part Five, Articles 195 to 224.\textsuperscript{26}

However, not all court decisions with legal power can be applied immediately in the implementation of environmental civil rulings. The facts reveal that there have been various court judgements connected to environmental civil issues that have permanent legal effect but are unable to be implemented. These verdicts include Jambi District Court Decision Number 107/Pdt.G/LH/2019/PN Jmb, dated April 13, 2020, which upheld the Ministry of Environment and Forestry's environmental civil case against PT. Agro Grows Eternally Brilliant. According to Minister of Environment and Forestry Regulation No. 7 of 2014 about Environmental Losses Due to Pollution and/or Environmental Damage, the judge approved the entire petition of the lawsuit using all components of the cost of loss. The panel of judges concluded in their conclusion that the corporation was solely accountable for environmental losses incurred as a result of the fire on the defendant's property.

In addition, Palangkaraya District Court Decision No. 118/Pdt.G.LH/2016/PN.Plk. Arie Rompas, Kartika Sari, Fatkiburrohman, Afandi, Herlina, Nordin, and Mariaty were among the plaintiffs in this lawsuit (Citizen Lawsuit). In relation to the 2015 fire and haze case, they sued Joko Widodo (President of

\textsuperscript{23} See the definition of a loss in Article 3 of Minister of Environment Regulation No. 7 of 2014, as well as community losses.

\textsuperscript{24} See the Explanation of Article 81 (1) UU PPLH.

\textsuperscript{25} The word "execution" derives from the Latin word "executie," which means "to carry out." The act of carrying out a decision (ten uitvoer legging van vonnis) is the same thing as execution. According to Prof. R. Subekti, SH, the term "execution" or "execution" already suggests that the vanquished party does not wish to obey the verdict voluntarily and that the decision must be imposed on him using public power.

\textsuperscript{26} M. Yahya Harahap, Scope of Civil Execution Issues, Second Edition, Gramedia, Jakarta, 2005, p. 1
the Republic of Indonesia), Minister of Environment and Forestry, Minister of Agriculture, Minister of ATR/Head of BPN, Minister of Health, Governor of Central Kalimantan, and the Central Kalimantan DPRD. Their request was approved. The Court condemned Defendant I (President) to issue implementing rules of Law Number 32 of 2009 concerning Environmental Protection and Management, which are vital for preventing and overcoming forest and land fires by enlisting community participation. The decision was upheld by the Supreme Court's Court of Cassation.

Also, there are a lot of court decisions in environmental civil disputes that have long-term legal effects but can't be used:

1. On April 18, 2017, the Supreme Court issued a decision at the review level in the case of PT Kalista Alam's forest fire in Aceh. In its ruling, PT Kalista Alam agreed to pay Rp. 366 billion in compensation for environmental losses and restoration expenditures.
2. PT Makmur Lestari Primatama carried out the Cassation Decision of August 18, 2016 relating to the case of felling protected trees (both outside and inside the forest area). PT MLP was then ordered to pay Rp 16.1 trillion in compensation and environmental repair efforts.
3. Land fires caused by PT. Jatim Jaya Perkasa in Riau. The Court of Cassation ordered the company to pay Rp. 491 billion in damages and to take other steps to get back what it had lost.
4. PT Waringin Agro Jaya's Cassation Decision, issued August 10, 2018, in relation to land fires in South Sumatra (WAJ). The court ordered a fine of Rp. 466 billion to pay for environmental damage and restoration costs.

There are many technical and legal issues that make it difficult for the company to follow through on these decisions. As a result, the cases above have not yet been completed to meet the company's responsibility and obligation to compensate for environmental losses and environmental recovery actions caused by its mistakes.

Book II of Administrative and Technical Guidelines for Civil and Special Civil Courts explains why a court's decision in a civil case isn't binding. These conditions are outlined in the book, are the following:

a. Deliberations that are both declaratory and constitutive
b. The goods to be executed are not in the hands of the Defendant/Execution Respondent;
c. The goods to be done don't match the goods in the verdict; they don't match.
d. The decision cannot be implemented;
e. The head of the district court can't say a decision can't be done until the whole process of execution is done, except in the case of point a.

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27 The Supreme Court of the Republic of Indonesia, Book II Guidelines for the Implementation of Duties and Administration of General and Special Civil Courts, 2008, p. 104.
Meanwhile, according to M. Yahya Harahap, the legal factors that prevent the execution of court decisions in civil disputes, such as:

a. Missing Execution Wealth;
b. Declaratory decisions cannot be applied to civil case decisions.
c. Execution Objects in the Hands of Third Parties
d. Non-executable Execution Against Tenants
e. There is no clear boundary on the land to be executed;
f. Land Status Change to State Property;
g. Two different decisions
h. Execution Objects Are Located Abroad
i. Shared Assets Execution

Meanwhile, in the context of the implementation of environmental civil court decisions, several factors or obstacles that prevented these decisions from being implemented were: first, the problem of coordination between institutions that have the authority to carry out the execution of environmental civil decisions, both internally by the court and institutionally externally. courts, as well as allied agencies like the Ministry of the Environment and others. The Ministry of Environment sent a warning letter (aanmaning) to the Chairperson of the Meulaboh District Court twice in order to enforce the Cassation ruling in the PT Kalista Alam case, but was never summoned. PT Kalista Alam has submitted a back.

The Chairperson of the Meulaboh District Court then issued a Legal Protection Determination based on PT Kalista Alam's request, thereby suspending the execution owing to PT Kalista Alam's lawsuit against the Ministry of Environment and Forestry. Because it is clear that PT Kalista Alam has broken the law, the chairman of the Court does not apply the principles of In Dubio Pro Natura or the precautionary principle, which uses strict liability and requires the chairman of the Court to prioritize environmental sustainability and community protection in making a decision.

On the other hand, some of the issues that arise when implementing court rulings that have long-term legal effects on environmental civil issues can be explained in more detail based on some of the cases above:

1. The Chief Justice's authority in enforcing environmental civil rulings is still shaky and unclear.

In general, HIR, RBg, and RV govern the execution of court rulings relating to civil disputes in Indonesia. Several first-level court officials were involved in the execution, including the head of the court, the clerk, and the bailiff. The party entitled to lead and order the execution of civil disputes is the Chairperson of the Court in his position (ex-officio) (Article 54 paragraph (2) of Law No. 48 of 2009). In

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the context of carrying out court decisions relating to environmental civil disputes, the chairman of the
court's authority has not been clearly and specifically regulated according to the character and specificity
of environmental cases, so the chairman of the court frequently takes actions or makes decisions outside
of his or her authority without taking into account environmental and environmental interests. public.

2. The executing respondent's request for judicial review is invoked as a justification for postponing
the execution.

Several environmental civil cases with permanent legal force are at the cassation level, for which
the Ministry of Environment wishes to make a request for execution, but the request has been postponed
because the executed party has taken legal action to have the matter reconsidered (PK). As in the case of
PT. Merbau Pelalawan Lestari, who was sentenced to death by the Pekanbaru District Court. The
Execution Applicant, KLHK, sent/delivered Aanmaning’s letter to the Head of the District Court, but the
Head of the Pekanbaru District Court responded that the Ministry of Environment and Forestry's request
for execution could not be carried out because PT. MPL had made a PK legal effort. Of course, the court's
chairman did not prioritize the environment's and community's interests in this case because the cassation
decision might be carried out at the execution stage despite a PK legal effort.

3. The respondent's counterclaim for execution is utilized as a justification for postponing the
execution.

The chairman of the District Court issued a Legal Protection Determination based on PT KA's
request, thereby suspending the execution due to PT KA's lawsuit against the Ministry of the Environment.
This was one of the reasons for the delay in the execution of PT Kalista Alam's decision.

4. The method for making compensation payments and carrying out environmental restoration work
is unclear.

One of the consequences of the lack of precise regulations governing the implementation of
environmental civil rulings is the difficulty of collecting compensation or enforcing certain parties'
responsibilities to take particular steps. Environmental decisions can take the form of an order to pay a
certain amount of money as compensation for environmental harm, as well as an order to carry out a
specific activity that might be valued in money.\(^{30}\)

For example, an order to rebuild 1,000 hectares of burned land valued at 100 billion rupiah was
issued. If the decision orders the defendant to pay a specific amount of compensation for environmental
harm, the execution procedure is carried out as described in Chapter II. There are, however, unique
roadblocks in this regard. First, if the applicant for the execution is the Ministry of Environment and
Forestry (KLHK), it will be difficult to reach an agreement through mediation because the lawsuit was
filed based on independent experts' research and calculations, and KLHK does not believe it has the basic

authority to negotiate in the process. mediation. Second, the Ministry of Environment and Forestry would not accept the proposed compensation in the peace deal if the amount is not consistent with independent expert estimations. This is because if the Ministry of Environment and Forestry approves compensation that is not in line with independent expert estimations, it might be regarded as a possible loss to the state.

Furthermore, there are no clear procedures or standards that govern the execution of some tasks (such as environmental restoration). The lack of specific rules perplexes the court as the executor of the execution, namely how the environmental restoration is carried out, how the costs are detailed, and who is responsible for supervising it, especially given that environmental restoration is an activity that will take a long time or will not be completed at all. On the other hand, the court's ambiguity in carrying out certain acts shows that it is not serious about carrying out the petitioner's request for execution. 31

5. During a citizen law suit, there is no way to force the defendant to do what they say they will do. If the defendant is the government or local government and the court's ruling directs the defendant to execute particular steps, the defendant's noncompliance is frequently discovered in the implementation of the judgement. The PPLH Law also does not prescribe punishment if the defendant does not carry out the decision, which creates a separate barrier for the court to carry out the decision's execution against the government or officials who do not carry it out.

6. Because it was hard to get information about the defendant's assets, no assets or assets were taken as collateral at the time of the verdict's execution.

Normally, a plaintiff in an environmental legal case can seek the confiscation of a company's assets to cover the cost of the lawsuit. HIR, on the other hand, serves as a legal reference. In environmental legal disputes, civil procedural law provides for the confiscation of the assurance in the final decision, so the plaintiff never has a promise from the outset about the defendant's ability to carry out the decision if his complaint is allowed. On the other hand, both the plaintiff and the court face challenges in locating and determining the assets that can be confiscated as collateral. Due to the nature of the case, which is based on civil settlements (rather than pro-justicia), it is difficult for courts to trace and reveal asset data in relevant agencies.

The government has so far refused to provide the bailiff or the execution application access to the execution defendant's assets. Furthermore, existing rules and regulations, as well as the bailiff's lack of competence in carrying out his duties and authorities as an executor of executions in the field, do not support the implementation of effective and efficient executions. In actuality, the bailiff is the person in charge of enforcing court orders in civil matters. As a result of the fact that the execution determination only contains limited information concerning the object of execution, the bailiff is frequently forced to improvise in order to overcome the numerous hurdles encountered in the field.

31 Ibid
C. Special Arrangements Are Required for the Execution of Environmental Data Decisions

One of the key contributing elements to the challenges encountered in the execution of court decisions linked to environmental civil issues, as indicated above, is that the method for executing decisions continues to employ regular civil procedural law as established in HIR/R Bg. Because civil environmental issues have a different character, they should be governed individually rather than employing the rules for executing regular civil judgements as regulated in Article 195 paragraph (1) HIR or Article 206 paragraph (1) RBg. Special judges that handle environmental disputes are special judges who have already received training certification as environmental judges. This is in contrast to general civil conflicts, because the manner in which environmental civil cases are handled is also distinct from civil cases in general. As a result, unique procedures and handling methods should be used when the decision is put into action or put into place.

In this regard, it's comparable to the implementation of a Commercial Court decision in a bankruptcy case. Because bankruptcy cases are unique, the manner in which they are handled is unique, and the decision is carried out in a unique way, with the Curator carrying out the execution under the supervision of the Supervisory Judge. As a result, the execution of environmental civil decisions should be handled by a body with specific powers and responsibilities in the process of carrying out court orders. Although the institution is distinct from the Curator's Institution, it is nearly identical to the Curator's authority in settling debtor bankruptcy accounts in terms of the functions and powers conferred in the implementation of court rulings. The bailiffs in the courts can play a big role in setting up these institutions. They can also be set up outside the courts by combining bailiffs from the courts with government officials from the Ministry of Environment and Agriculture.

Special rules should, of course, be set at this time to regulate the procedures and technical implementation of court decisions relating to environmental civil disputes. In an ideal world, the legal product issued to regulate the procedure for implementing the execution of environmental civil decisions would be in the form of a law, but because the process of making laws takes a long time in the DPR, in the short term, to anticipate the many court decisions in environmental civil disputes cases where life is not carried out, which has implications for environmental and community losses, legal products issued in the short term could be in the form of a directive (PERMA). This rule then creates a special agency in charge of enforcing environmental civil judgements, and this body is given the jurisdiction to administer all corporate assets while also having access to all corporate assets that refuse to adhere to and obey court orders. Even the process of identifying and tracking the defendant's company's assets can begin during the trial, so there is no need to wait for a court verdict. In numerous cases, such as the PT Kalista Alam case, a list of assets to be executed has not been attached to the execution request, making it impossible for the bailiff to track down the assets to be executed.
4 CLOSING

If a court decision with permanent legal effect cannot be implemented or enforced, it is meaningless, especially in civil issues involving the environment. Many court judgements on environmental civil issues already have permanent legal effect, but they can't be carried out or enforced. Many factors contribute to the inability to implement a court decision in an environmental civil case, one of which is the law used in implementing environmental civil decisions, which continues to rely on ordinary civil procedural laws as regulated in HIR and RBg, which are irrelevant to environmental civil cases with a unique character. As a result, new rules should be drafted, particularly to govern the procedural and technical aspects of implementing environmental civil rulings. Because of this, there is a special body that has the power, under the supervision of the Chief Justice, to make long-term environmental and civil legal rulings.
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