

A Juridical Analysis of Evidence for Trading Imported Processed Food without a BPOM Distribution Permit (Judgment No. 438/Pid.Sus/2021/PN Pbr)

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Abstrak

Penelitian ini bertujuan untuk menganalisis pertimbangan hukum hakim dalam pembuktian kasus impor makanan ilegal tanpa izin edar Badan Pengawas Obat dan Makanan (BPOM) pada Putusan Pengadilan Negeri Pekanbaru Nomor 438/Pid.Sus/2021/PN Pbr serta menganalisis kesesuaian pembuktian dalam putusan tersebut dengan ketentuan hukum pidana dan peraturan perundang-undangan terkait pangan. Penelitian ini menggunakan metode penelitian hukum normatif yang bersifat deskriptif analitis dengan menggunakan pendekatan perundang-undangan (statute approach), pendekatan kasus (case approach), dan pendekatan konseptual (conceptual approach). Bahan hukum yang digunakan terdiri atas bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier yang dikumpulkan melalui studi kepustakaan dan dianalisis secara kualitatif. Hasil penelitian menunjukkan bahwa pertimbangan hukum majelis hakim dalam perkara tersebut didasarkan pada penilaian terhadap alat bukti dan fakta-fakta yang terungkap di persidangan dalam menentukan terpenuhinya unsur tindak pidana sebagaimana diatur dalam Pasal 142 jo. Pasal 91 ayat (1) Undang-Undang Nomor 18 Tahun 2012 tentang Pangan. Pembuktian dalam perkara tersebut dilakukan dengan menghubungkan alat bukti yang diajukan di persidangan dengan perbuatan terdakwa dalam mengedarkan pangan yang tidak memiliki izin edar. Berdasarkan hasil analisis, pembuktian yang dilakukan oleh majelis hakim telah dikaitkan dengan ketentuan hukum acara pidana dan ketentuan peraturan perundang-undangan di bidang pangan, sehingga menjadi dasar bagi hakim dalam menyatakan terdakwa terbukti melakukan tindak pidana sebagaimana didakwakan. Dengan demikian, pertimbangan hukum hakim dalam Putusan Nomor 438/Pid.Sus/2021/PN Pbr menunjukkan adanya penerapan ketentuan pembuktian pidana dalam menilai terpenuhinya unsur tindak pidana pangan tanpa izin edar.

Kata Kunci: Pembuktian, Makanan Ilegal, Izin Edar, BPOM, Pertimbangan Hakim.

Abstract

This study aims to analyze the legal considerations of judges in proving the case of illegal imported food products without a distribution permit from the Food and Drug Supervisory Agency (BPOM) in Decision of the Pekanbaru District Court Number 438/Pid.Sus/2021/PN Pbr, as well as to analyze whether the evidence in the decision is in accordance with criminal law provisions and laws and regulations concerning food. This research employs a normative legal research method with a descriptive-analytical approach, using a statutory approach, a case approach, and a conceptual approach. The legal materials used consist of primary, secondary, and tertiary legal

materials, which were collected through library research and analyzed qualitatively. The results of the study indicate that the legal considerations of the panel of judges in the case were based on an assessment of the evidence and facts revealed during the trial in determining the fulfillment of the elements of the criminal offense as regulated under Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food. The proof in the case was conducted by relating the evidence presented at trial to the defendant's act of distributing food products that did not have a distribution permit. Based on the analysis, the evidence considered by the panel of judges was related to the provisions of criminal procedural law and the applicable laws and regulations concerning food, thereby providing a basis for the judges to find the defendant proven to have committed the criminal offense as charged. Therefore, the legal considerations of the judges in Decision Number 438/Pid.Sus/2021/PN Pbr demonstrate the application of criminal evidentiary provisions in determining the fulfillment of the elements of a food-related criminal offense involving food products without a distribution permit.

Keywords: *Evidence, Illegal Food Products, Distribution Permit, BPOM, Judicial Considerations.*

INTRODUCTION

The growth of globalization and free trade has led to an increase in the circulation of imported products, including processed foods, within Indonesia. While the availability of imported food benefits the public by meeting consumption needs, it also presents challenges when traded products fail to comply with applicable legal regulations particularly regarding safety, quality, and distribution permits. The distribution permit serves as a regulatory instrument designed to ensure that food products on the market meet established requirements, thereby protecting the public as consumers.¹

The obligation regarding food distribution permits is explicitly stipulated in Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food, which mandates that, for the purpose of monitoring safety, quality, and nutrition, every processed food product whether domestically produced or imported intended for trade in retail packaging must possess a distribution permit.² These provisions indicate that the requirement to hold a distribution permit applies not only to domestically produced food but also to processed food that is imported and traded in retail packaging. Thus, the distribution permit is a crucial component of the food oversight mechanism designed to protect the public.

The distribution of food products lacking a distribution permit involves more than just an administrative violation; it can entail criminal consequences if the act meets the elements of a criminal offense defined in statutory regulations. Article 142 of Law Number 18 of 2012 concerning Food stipulates that food business operators who intentionally fail to obtain a distribution permit for processed food whether domestically produced or imported for sale in retail packaging may be subject to criminal sanctions.³ Therefore, in the enforcement of the law regarding the

¹ Celina Tri Siwi Kristiyanti, *Hukum Perlindungan Konsumen* (Jakarta: Sinar Grafika, 2019), 112.

² Republic of Indonesia, Law No. 18 of 2012 on Food, art. 91(1).

³ Republic of Indonesia, Law No. 18 of 2012 on Food, art. 142.

distribution of food products lacking a distribution permit, the establishment of proof is a crucial aspect in determining whether the business operator's actions satisfy the elements of the alleged criminal offense.

The evidentiary process holds a crucial position in criminal cases because, when rendering a judgment, a judge must base their conviction on admissible evidence and facts revealed during the trial. The provisions of Article 183 of Law Number 8 of 1981 concerning Criminal Procedure Law stipulate that a judge may not impose a criminal penalty on an individual unless, based on at least two pieces of admissible evidence, the judge is convinced that a criminal offense actually occurred and that the defendant is the one who committed it.⁴ Consequently, establishing proof in cases involving the distribution of food products lacking the required marketing authorization entails more than merely demonstrating the existence of such products; it requires linking the evidence to the defendant's actions and the elements of the charged offense. In cases involving the illegal importation of food lacking marketing authorization, the evidentiary process demands a demonstrable connection between the submitted evidence and the established legal facts. Witness testimony, expert testimony, documentary evidence, the defendant's statement, and physical evidence specifically the food products themselves serve as crucial components in proving the defendant's actions. This is particularly significant when the element of intent must be established, as the mere presence of food lacking marketing authorization is insufficient to dispense with an assessment of the defendant's relationship to the product, as well as their knowledge and conduct within the context of the commercial activity.⁵

One case relevant to this matter is the Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr. The case originated from an inspection conducted by the National Agency of Drug and Food Control (BPOM) specifically its regional office (BBPOM) at a shop owned by the defendant on March 29, 2017. During the inspection, 63 types of imported processed food products were found being sold without the required distribution permits (MD/ML) from the Indonesian Food and Drug Authority. The defendant had obtained these products from sales representatives who visited the shop and subsequently resold them at retail to the public.⁶

Based on the facts revealed during the trial, the evidentiary basis for the case involved witness testimonies, expert testimony, the defendant's statement, and physical evidence in the form of processed food products lacking a distribution permit. The panel of judges then evaluated this evidence to determine whether the elements of the criminal offense as stipulated in Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food had been met.⁷ This issue warrants examination because the evidentiary process in this case determines not only the presence or absence of food products lacking a distribution

⁴ Republic of Indonesia, Law No. 8 of 1981 on Criminal Procedure, art. 183.

⁵ Putu Wilsa Nityananda Advaita Pasek and I Dewa Ayu Dwi Mayasari, "Penegakan Hukum terhadap Pelaku Usaha Pangan yang Mengedarkan Air Minum Dalam Kemasan tanpa Izin BPOM," *Kertha Wicara: Journal Ilmu Hukum* 14, no. 5 (2025), <https://doi.org/10.24843/KW.2025.v14.i05.p5>.

⁶ Pekanbaru District Court Decision No. 438/Pid.Sus/2021/PN Pbr, facts concerning the BBPOM inspection and the discovery of 63 types of food without distribution permits.

⁷ Pekanbaru District Court Decision No. 438/Pid.Sus/2021/PN Pbr.

permit but also involves how the judge links the evidence to the elements of "any business operator" and "intentionally lacking a distribution permit" within the applicable criminal provisions.

Furthermore, BPOM's role in overseeing the distribution of food products is also grounded in law. Presidential Regulation Number 80 of 2017 concerning the National Agency of Drug and Food Control (BPOM) establishes the basis for the agency's status, duties, functions, and authority in conducting the supervision of drugs and food.⁸ In Case Number 438/Pid.Sus/2021/PN Pbr, the results of the BBPOM examination regarding food products lacking a distribution permit constituted a crucial part of the facts subsequently scrutinized during the evidentiary process at trial. Thus, there is a connection between BPOM's supervisory authority, the business operator's obligation to hold a distribution permit, the evidence presented in court, and the judge's legal reasoning in determining whether the elements of the criminal offense were met.

Research regarding food products lacking distribution permits has been conducted by several researchers. A study by Febrian AkhIRama Saputra, Najmi, and Aria Zurnetti examines law enforcement actions taken by Civil Servant Investigators (PPNS) from BBPOM Padang against processed food products lacking distribution permits, highlighting the role of BBPOM's PPNS in the enforcement process regarding the circulation of such products.⁹ Meanwhile, research by Jermias T. U. Rarsina addresses consumer protection regarding the trade of imported food products that lack BPOM distribution permits, highlighting the risk of consumer harm arising from the absence of guarantees that the products meet BPOM's regulatory requirements.¹⁰ Unlike the aforementioned study, this research specifically focuses on the aspects of evidence and judicial reasoning in Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr, and assesses their conformity with criminal law provisions and food-related legislation.

Based on the foregoing, this research is essential to analyze how the panel of judges weighed the evidence and legal facts in establishing the criminal offense of importing illegal food lacking BPOM distribution authorization, and to determine whether the evidentiary process in Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr adhered to criminal law provisions and food-related regulations. Therefore, this research is titled "Juridical Analysis of the Proof Regarding the Import of Illegal Food Without BPOM Distribution Authorization (Case Study: Decision No. 438/Pid.Sus/2021/PN Pbr)."

RESEARCH METHOD

This study employs a normative legal research method characterized by a descriptive-analytical approach. Normative legal research involves examining the law as norms or rules derived from legislation, court rulings, legal doctrine, and legal

⁸ Republic of Indonesia, Presidential Regulation No. 80 of 2017 on the National Agency of Drug and Food Control, arts. 3–4.

⁹ Febrian AkhIRama Saputra, Najmi, and Aria Zurnetti, "Penegakan Hukum oleh Penyidik Pegawai Negeri Sipil (PPNS) Balai Besar Pengawas Obat dan Makanan (BBPOM) Padang terhadap Pangan Olahan Tanpa Izin Edar," *UNES Law Review* 5, no. 4 (2023): 4274–91, <https://doi.org/10.31933/unesrev.v5i4.737>.

¹⁰ Jermias T. U. Rarsina, "Perlindungan Konsumen Terhadap Perdagangan Online Produk Pangan Impor yang Tidak Memiliki Izin Edar BPOM," *Paulus Law Journal* 5, no. 1 (2023): 105–15.

literature relevant to the issue under investigation. In this study, the method is used to analyze the evidentiary process and the judge's legal reasoning regarding a case of illegal food importation—specifically, the import of food lacking a distribution permit from the National Agency of Drug and Food Control (BPOM)—with a particular focus on the application of Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food, as addressed in Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr.¹¹ This research employs the statute approach, the case approach, and the conceptual approach. The statute approach is used to examine legal provisions governing the burden of proof, criminal offenses in the food sector, and the requirement to hold a distribution permit. The case approach is applied by analyzing Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr to understand the panel of judges' legal reasoning regarding the assessment of evidence and the facts revealed during the trial. Meanwhile, the conceptual approach is used to understand concepts such as the burden of proof in criminal cases, forms of evidence, judicial legal reasoning, and criminal liability.¹² The sources of legal materials for this research consist of primary, secondary, and tertiary legal materials. Primary legal materials include Law Number 18 of 2012 concerning Food, Law Number 8 of 1981 concerning Criminal Procedure Law, Presidential Regulation Number 80 of 2017 concerning the National Agency of Drug and Food Control (BPOM), other relevant laws and regulations, and the Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr. Secondary legal materials comprise law books, scholarly journals, research findings, and expert opinions regarding the law of evidence, judicial legal reasoning, criminal law, and criminal offenses in the food sector. Tertiary legal materials consist of legal dictionaries, legal encyclopedias, and other sources that provide explanations regarding the primary and secondary legal materials.¹³

Legal materials were gathered through library research, involving the identification, collection, study, and examination of legislation, court rulings, books, legal journals, and other literature relevant to the research subject. Subsequently, all legal materials underwent qualitative analysis by interpreting legal provisions and correlating them with the legal facts, evidence, and the panel of judges' legal reasoning found in Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr. The results of this analysis were systematically organized to address issues concerning the judges' legal reasoning regarding the evidentiary process, as well as the alignment of the evidence with criminal law provisions and food-related legislation.¹⁴

The temporal evidentiary framework for Judgment No. 438/Pid.Sus/2021/PN Pbr is Law No. 8 of 1981 on the Criminal Procedure Code. Under Articles 183 and 184, conviction requires at least two lawful means of evidence together with the judge's conviction. Law No. 20 of 2025 on the new Criminal Procedure Code entered

¹¹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017), 35.

¹² Marzuki, *Penelitian Hukum*, 133–84.

¹³ Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, rev. ed. (Jakarta: RajaGrafindo Persada, 2019), 12–15.

¹⁴ Soekanto and Mamudji, *Penelitian Hukum Normatif*, 12.

into force only on 2 January 2026 and is therefore not a legal basis for assessing a trial decided in 2021; it may be mentioned only as prospective legal context.

The object of proof must also be stated precisely. The criminal allegation is not established merely because the products were imported or because they were physically possessed. The prosecution must link the defendant to the legally prohibited conduct under the applicable Food Law provision, establish the status of the processed food and the absence of the required BPOM distribution permit, and prove the required subjective element from admissible evidence. Possession, storage, invoices, sales activity, statements, labels, BPOM verification, and expert testimony have different evidentiary functions and should not be conflated.

RESULTS AND DISCUSSION

Judges' Legal Reasoning Regarding Evidence for Trading Imported Processed Food without BPOM Distribution Permits (Judgment No. 438/Pid.Sus/2021/PN Pbr)

Case Number 438/Pid.Sus/2021/PN Pbr is a special criminal case heard and adjudicated by the Pekanbaru District Court involving the defendant, MIMI, the owner of the MIMI Shop. The case originated from a supervisory inspection conducted by the Pekanbaru Food and Drug Monitoring Agency (Balai POM) team on March 29, 2017. During the inspection, 63 types of food products were found that lacked a distribution permit or an MD/ML registration approval letter from the Indonesian Food and Drug Monitoring Agency (BPOM RI). These products were discovered at the MIMI Shop; based on the facts established during the trial, they were not merely stored for personal use but were located at a business premise used for commercial activities and were subsequently sold at retail to the public.

The Public Prosecutor charges the defendant under the provisions of Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food. These provisions essentially prohibit any business operator from intentionally failing to obtain a distribution permit for processed food whether domestically produced or imported intended for trade in retail packaging. Therefore, proving this case requires more than merely establishing the existence of food products lacking a distribution permit; it is also necessary to prove the defendant's status as a business operator, the trading activities involving said products, and the element of intent regarding the failure to obtain the distribution permit.

a. Establishing the Defendant's Status as a Business Actor

The Panel of Judges first considered the element of "any business actor." This element pertains to the legal subject that can be held liable for the alleged act. In this case, the defendant's identity was verified during the trial, and it was established that the defendant is the owner of Toko MIMI, an establishment engaged in food trading activities.

The defendant's status as the shop owner bears a direct relationship to the subject matter of the case, as the food products discovered by Food and Drug Monitoring Agency (BPOM) officers were located within the defendant's place of business. Consequently, the panel of judges did not base the fulfillment of this element solely on the defendant's identity, but also on the fact that the defendant was the party conducting the business operations and had a connection to the

discovered food products. Based on these considerations, the element of "every business actor" was deemed to have been satisfied.

In the author's view, the judge's consideration regarding this element is sufficiently grounded, given the link between the defendant's status as a business owner and the food trading activities that form the subject matter of the case. Consequently, the party named in the proceedings bears a direct connection to the alleged act.

b. Establishing the Presence of Imported Food Lacking a Distribution Permit

A key fact in this case is the discovery of 63 types of food products lacking distribution permits. These products were found by the Pekanbaru Food and Drug Monitoring Agency (BPOM) team during an inspection of the MIMI store. The products included imported processed foods that did not possess the required MD/ML registration approval from the Indonesian Food and Drug Monitoring Agency (BPOM RI).

The testimonies of witnesses Seti Sumarsini and Edi Rusfa corroborate the facts regarding the conduct of the inspection and the discovery of food products lacking distribution permits. Their accounts are consistent regarding the time and location of the inspection, as well as the findings specifically, 63 types of food products that did not possess distribution permits.

In addition to witness testimony, the panel of judges also considered the testimony of expert witness Alex Sander, S.Farm., Apt. The expert explained the status of the discovered food products, stating that products such as Milo, Nespray, and Ovaltine as well as other products distributed by the defendant did not possess the MD/ML registration approval letter from the Indonesian Food and Drug Authority (BPOM RI). This expert testimony was significant as it provided a technical explanation regarding the registration status of the food products found during the inspection.

The existence of these 63 types of food products was further substantiated by the evidence presented during the trial. This evidence was linked to the testimonies of witnesses and experts, as well as the statement of the defendant. Consequently, the evidence did not stand in isolation but formed part of an interconnected chain of proof.

c. Proof of Food Trading Activities

In addition to establishing the existence of products lacking marketing authorization, the panel of judges also took into account the fact that the products were involved in commercial activity. The defendant explained that the food items in question were obtained from an individual or a salesperson who had come to offer the products to the defendant. These products were subsequently stocked in the store and resold at retail to the public.

This information indicates that the food products discovered were not merely in the defendant's possession for personal use; rather, they were located at a business premises and intended for commercial trade. This fact is significant because the provisions of Article 91 paragraph (1) of the Food Law specifically pertain to processed food whether domestically produced or imported that is intended for trade in retail packaging.

In the author's view, the relationship between the presence of the product, the location where it was found, and the defendant's statements regarding sales activities establishes a set of facts supporting the conclusion that the foodstuff was indeed intended for commercial purposes. Consequently, the element concerning processed food imported for trade is factually substantiated in this case.

d. Judicial Considerations Regarding the Element of "Intentionally Lacking a Distribution Permit"

The element of "intentionally lacking a distribution permit" is a crucial aspect of this case, as Article 142 of the Food Law explicitly incorporates the element of intent. Therefore, the mere existence of a product lacking a distribution permit is insufficient to immediately conclude that the element of intent has been met. There must be facts demonstrating a connection between the defendant's knowledge regarding the product's status and their actions in trading that product.

In its deliberations, the panel of judges explained the various forms of intent: intent as purpose (*opzet als oogmerk*), intent with awareness of certainty or necessity (*opzet bij zekerheidsbewustzijn*), and intent as possibility (*dolus eventualis*). This explanation was then linked to the facts revealed during the trial.

The defendant's testimony plays a crucial role in this regard. The defendant explained the origin of the products which were obtained from sales representatives the retail resale activities, and the fact that the products originated from abroad and lacked distribution permits. This testimony is relevant to establishing the defendant's knowledge regarding the status of the traded products.

In the author's view, the panel of judges' reasoning regarding the element of intent is essentially acceptable, as it is based not only on the objective fact that products lacking marketing authorization were found, but also on the defendant's knowledge and their actions in persisting to store and sell said products. Thus, a connection exists between the status of the products specifically their lack of marketing authorization and the defendant's actions as a business operator.

Nevertheless, the specific nature of the intent involved warrants further examination. While the panel of judges outlined various forms of intent, it did not explicitly determine which form best corresponded to the defendant's actions. In the author's view, the analysis of intent should focus more on the relationship between the defendant's knowledge regarding the absence of a marketing authorization and their decision to proceed with trading the product.

Consistency of the Evidentiary Findings in Judgment No. 438/Pid.Sus/2021/PN Pbr with Criminal Law and Food Legislation

The proving of a criminal case must be conducted in accordance with the provisions of criminal procedural law. Pursuant to Article 183 of Law Number 8 of 1981 concerning Criminal Procedure Law, a judge may not impose a sentence on a person unless, based on at least two pieces of valid evidence, the judge is convinced that a criminal offense has indeed occurred and that the defendant is the one who committed it. Meanwhile, Article 184 paragraph (1) of the Criminal Procedure Code (KUHP) stipulates that valid evidence comprises witness testimony, expert testimony, documents, indications, and the testimony of the defendant.

In Judgment Number 438/Pid.Sus/2021/PN Pbr, the evidentiary process relied on several interconnected pieces of evidence. Testimony from a Food and

Drug Monitoring Agency (BPOM) officer detailed the inspection process and the discovery of products lacking marketing authorization. Expert testimony clarified the products' status regarding registration and marketing authorization. The defendant's testimony provided an explanation concerning the possession and trading of the products, while physical evidence consisting of 63 types of food products corroborated the facts regarding the subject matter of the case.

The body of evidence establishes a connection between the facts regarding the products lacking marketing authorization and the defendant's status as a business operator. Witness testimony concerning the inspection at Toko MIMI aligns with the physical evidence discovered. Expert testimony further clarified the absence of MD/ML registration approval for the products. Meanwhile, the defendant's statement indicated that the products were obtained from sales representatives, stocked in the store, and resold at the retail level. Thus, while each piece of evidence serves a distinct function, they mutually reinforce one another to establish a coherent set of legal facts.

Based on the totality of these facts, the panel of judges determined that the element of "any business actor" was satisfied, as the defendant was the owner of Toko MIMI and engaged in food trading activities. The element of "intentionally lacking a distribution permit" was deemed satisfied because the traded products lacked such a permit and the defendant was aware of this fact. Meanwhile, the element concerning processed food whether domestically produced or imported intended for sale in retail packaging was supported by the fact that the products discovered originated from abroad and were being sold to the public.

Thus, in the author's view, the application of Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food in this case was based on an examination of the elements of the criminal offense and the relationship between the evidence and the legal facts revealed during the trial. The establishment of proof did not rely solely on the discovery of food lacking a distribution permit; it also took into account the defendant's status as a business operator, the trading activities involved, the product's origin, the status of the distribution permit, and the defendant's knowledge regarding the product's condition.

Juridical Analysis of the Judge's Considerations in Judgment No. 438/Pid.Sus/2021/PN Pbr

In essence, the judge's considerations in a criminal judgment must demonstrate a clear connection between the charges, the evidence, the legal facts, the application of legal provisions, and the conclusion regarding the defendant's guilt. This aligns with the judge's obligation to provide the reasoning and basis for the judgment, as stipulated in Article 50 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power.

In Case Number 438/Pid.Sus/2021/PN Pbr, the panel of judges linked the findings from the inspection conducted by the Food and Drug Monitoring Agency (Balai POM) to the presence of 63 types of food products lacking marketing authorization. These facts were further corroborated by witness testimony, expert testimony, the defendant's statement, and evidence presented during the trial. This sequence of factors demonstrates that the panel of judges did not base its ruling solely on the existence of goods lacking marketing authorization, but also evaluated

the connection between those goods and the defendant in their capacity as the owner and business operator.

From a consumer protection perspective, this consideration is relevant because food products marketed to the public must comply with applicable regulations. Monitoring food products in circulation is part of the effort to protect the public as consumers. In this case, the inspection conducted by the Food and Drug Monitoring Agency (Balai POM) yielded concrete findings specifically, food products lacking the required distribution permits which were subsequently used as evidence in criminal proceedings.

In the author's view, the ruling demonstrates that the application of criminal law in the food sector requires comprehensive proof. The existence of a product lacking a distribution permit constitutes an objective fact, whereas the defendant's knowledge and the act of proceeding to trade the product form part of proving the subjective element specifically, intent. Therefore, establishing the elements of the criminal offense must be viewed as an interconnected sequence linking the legal subject, the object of the offense, the act of trading, the status of the distribution permit, and the defendant's knowledge.

Nevertheless, there are aspects of the judge's reasoning that could be further elaborated, particularly regarding the element of intent. The explanation concerning the forms of intent should not stop at a theoretical description; rather, it needs to explicitly identify the specific form of intent deemed proven based on the facts presented at trial. This is crucial to establishing a clearer link between the defendant's knowledge of the absence of a marketing authorization and their intent to proceed with trading the product.

Thus, the evidentiary process in Judgment Number 438/Pid.Sus/2021/PN Pbr demonstrated a connection between the means of proof, physical evidence, legal facts, and the elements of the criminal offense as stipulated in Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food. The panel of judges declared that all elements of the offense had been met and that the defendant was proven guilty beyond a reasonable doubt. Ultimately, the judgment sentenced the defendant to eight months of imprisonment, ordered the destruction of the physical evidence consisting of food products lacking distribution permits and imposed the court costs upon the defendant.

Based on this analysis, it can be concluded that the judge's reasoning in this case essentially directed the evidentiary process toward the elements contained in Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food. The alignment of the evidence is evident from the use of interconnected forms of proof, as well as the examination of the defendant's status as a business operator, the presence of imported food lacking a distribution permit, the trading activities involved, and the defendant's knowledge. However, to achieve a more comprehensive rationale, the analysis regarding the element of intent requires further clarification based on concrete facts established during the trial.

The case should therefore be described as concerning proof of trading or circulating imported processed food without the required BPOM distribution permit, not "illegal importation" unless the judgment itself establishes an import offense and its separate legal elements. The analysis must distinguish the administrative obligation to obtain a permit from the criminal elements that trigger

punishment. Comparison with Supreme Court Decision No. 5253 K/Pid.Sus/2022 is useful only to the extent that the statutory provision, conduct, and evidentiary issue are materially comparable.

This study is limited to the written judgment and identified legal materials. It does not independently test the seized products, BPOM databases, or witness credibility. Accordingly, statements about intent, commercial distribution, and permit status are confined to facts expressly recorded and assessed in the decision.

CONCLUSION

First, based on the research findings, it can be concluded that the Panel of Judges in Pekanbaru District Court Decision Number 438/Pid.Sus/2021/PN Pbr considered the fulfillment of the elements of the criminal offense stipulated in Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food. This assessment involved evaluating the defendant's status as a business operator, the presence of processed food lacking a distribution permit, food trading activities, and the element of intent. The proof was supported by the testimony of a Food and Drug Monitoring Agency (BPOM) officer, expert testimony regarding the product's distribution permit status, the defendant's statement, and physical evidence consisting of 63 types of food products found at the MIMI Store. The Panel of Judges determined that the products were not merely in the defendant's possession for personal use but were acquired, stored, and sold at retail to the public. Based on this sequence of facts and evidence, the Panel of Judges declared that the elements of the charged offense had been proven legally and convincingly.

Secondly, the evidentiary process in Judgment Number 438/Pid.Sus/2021/PN Pbr was fundamentally consistent with criminal law provisions and food-related legislation. This is evident from the correlation between the submitted evidence and the legal facts established during the trial, as well as their application to the elements of Article 142 in conjunction with Article 91 paragraph (1) of Law Number 18 of 2012 concerning Food. Witness testimonies, expert testimonies, the defendant's statement, and physical evidence were interconnected in proving the existence of imported food lacking a distribution permit and the trading activities carried out by the defendant. Nevertheless, in the author's view, the reasoning regarding the element of "intentionally lacking a distribution permit" could be further clarified by explicitly detailing the link between the defendant's knowledge of the absence of a permit and their intent to proceed with trading the product. Overall, the reasoning and evidentiary findings in the judgment provided a sufficient basis for the Panel of Judges to declare the defendant guilty of a food-related criminal offense and to impose a sentence in accordance with applicable regulations.

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