

Criminal Provisions Against Foreign Fishermen Who Carry Out Fishing In The Exclusive Economic Zone (Study Decision No: 5/Pid.sus.PRK/2019/PN.Mdn)

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ABSTRACT

This type of research is normative legal research. In this research, library materials, legal research, judges' decisions and laws are the basis for which research is classified as secondary data. The nature of this research is descriptive analytical research that uses primary and secondary legal materials. , and tertiary. Criminal provisions against foreign fishermen who carry out fishing or illegal fishing in fisheries management areas, especially in the Indonesian Exclusive Economic Zone, which often occurs. The perpetrators of this crime are foreign fishermen. Law enforcement and criminal responsibility given to perpetrators of criminal acts in the Indonesian Exclusive Economic Zone are very weak, which only provides criminal sanctions for fines, which do not provide a deterrent effect on other foreign fishermen. And the actions of foreign fishermen can damage the marine ecosystem by using foreign fishermen using trawl fishing gear, which is prohibited by law. Law enforcement must use other efforts so that accountability and criminal provisions against foreign fishermen who catch fish in fisheries management areas, especially in the Indonesian Exclusive Economic Zone must make other efforts to reduce foreign actors or fishermen who enter the Indonesian fisheries management area, especially the Economic Zone Exclusively for Indonesia which does not have SIPI or SIUP. By increasing human resources, improving facilities and infrastructure in registering foreign ships entering the Indonesian Exclusive Economic Zone. By increasing security operations in a strict, routine and organized manner.

Keywords: *Criminal Provisions, Foreign Fishermen, Fishing, the Indonesian Exclusive Economic Zone.*

INTRODUCTION

As the largest archipelagic country in the world, where most of its territory consists of sea, Indonesia is one of the countries that has promising marine natural resources (SKAL) to be explored and exploited as a prime mover for national development. However, during three decades of national development, the potential in the maritime sector is still a peripheral sector and has not become mainstream in national development policy. In accordance with Article 33 Paragraph (3) of the Constitution which states "Earth and water and the natural resources contained therein are controlled by the State and used for the greatest prosperity of the people". As well as in the context of determining conservation and authority in determining provisions regarding the utilization of fish resources,

The Indonesian Exclusive Economic Zone is a limited or incomplete sovereign right of the coastal state in controlling the coastal state. The rights of coastal states in the Exclusive Economic Zone area have been determined by the convention, namely an area outside and adjacent to the territorial sea that does not exceed a distance of 200 nautical miles. In UNCLOS in 1982 the provisions regarding the Exclusive Economic Zone are regulated in article 55. The Continental Shelf is a sovereign right owned by the Coastal State limited to areas determined according to the convention. Like the Exclusive Economic Zone area, areas including the continental shelf are not fully under the control or jurisdiction and legal authority of the coastal

state. For the part of the continental shelf area which is located under the sea of a coastal state's territory, there is no question of the territory above it, namely that it is completely subject to the sovereignty of the coastal state. The Additional Zone is the sea located on the outside of the baseline and does not exceed 24 nautical miles from the baseline. In this zone, the state's power is limited to preventing violations of Customs, Fiscal, Immigration and Fisheries regulations.

The decisive action taken by the Indonesian government is to sink or blow up or burn ships that are involved in Illegal Fishing. This action drew both praise and criticism. Praise to those who support efforts to enforce state sovereignty over its maritime areas which are violated by foreign ships using various methods. Criticism was expressed by parties who felt that the state's actions were too harsh and had the potential to create bad relations with the ship's country of origin.

Action against perpetrators of Illegal Fishing can be subject to criminal fishing, Illegal Fishing in accordance with article 93 paragraph (2) of Law Number: 45 of 2009 which states "every person who owns and/or operates a foreign-flagged fishing vessel carries out fishing in the Fisheries management area The Republic of Indonesia, which does not have a SIPI as intended in article 27 paragraph (2), shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 20,000,000,000 (twenty billion rupiah)" but what foreign fishermen do in the Exclusive Economic Zone is not clearly regulated in the Fisheries Law, especially regarding corporate criminal law. Based on national law, the act of drowning obtains legitimacy based on Article 69 paragraph (4) of Law Number:

Independent management activities tend to be carried out alone without influence or support from other dominant parties. While the optimal management is in accordance with the strengths that exist on the management. There are still social inequalities and poverty in fishing communities that show impartiality in policy. This principle emphasizes attention to small fishermen, so that they continue to participate in fisheries management to increase their prosperity and welfare.

The public can see and control the course of fisheries management. To implement the principle of openness by utilizing increasingly sophisticated technological advances so that reciprocal communication can be established with the community quickly so that if there are problems encountered they will be immediately discovered and can be addressed as quickly as possible. The business actor networking approach is an action in the context of establishing cooperation with fisheries business actors. The scope of the approach is quite broad through various aspects so that the intended targets can be achieved. The partnership aspect requires a resource approach that considers the strengths of business partners equally. Businesses must consider the strengths of business partners equally with their own strengths so that when managing fisheries there is a balance.

This shows us how worrying the handling of Illegal Fishing cases in Indonesia is. In fact, due to the paralysis of law enforcement in the field of fisheries, this has resulted in huge losses for the country. Criminal liability for perpetrators in Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries as a means of realizing environmental policy will be greatly influenced by many factors, one of which is the formulation of the legal code itself.

Therefore, the crime committed by foreign fishermen in the Exclusive Economic Zone is

Illegal Fishing, then according to the accountability that can be imposed on these foreign fishermen is a criminal sanction in the form of fines. So all the regulations regarding the crime of illegal fishing contained in Law 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries can provide a deterrent effect on the perpetrators of criminal acts of fishing violations, especially those who This is illegal fishing which causes a lot of losses to the country and damages the ecosystem.

METHODS

This type of research is normative legal research. Normative legal research is library law research. Library law research still does not receive proper attention in Indonesia and many people still consider library law research not to be (scientific) research. In normative legal research, literature is the basis for (knowledge) research which is classified as secondary data. The nature of this research is descriptive analytical research. Analytical descriptive research is a form of research aimed at describing existing phenomena, both natural and man-made phenomena.

The technique for collecting legal materials that supports and is related to the presentation of this research is document study (library study), namely by conducting research on various reading sources, namely: Bachelor's opinion books, lecture materials, newspapers, articles and news obtained by the author with the aim of obtaining or searching for concepts, theories or materials or doctrines. The data collection technique used is documentation or literature study, in the form of Court Decisions regarding Fishing Crimes committed by Foreign Fishermen in the Indonesian Exclusive Economic Zone, reviewing statutory regulations, especially Law Number 45 of 2009 concerning amendments to the Law.

Law Number 31 of 2004 concerning Fisheries, and written works from legal experts that are relevant or related to the research object to be discussed. In this research, data analysis was carried out qualitatively, namely selecting principles, norms, doctrines and articles in laws that are relevant to the problem, creating a systematization of these data so that it will produce certain qualifications that are appropriate to the problem. which will be discussed in this study. The data analyzed qualitatively will be presented in the form of a systematic description as well, then all data is selected, processed and then stated descriptively so that it can provide a solution to the problem in question.

RESULTS AND DISCUSSION

Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries in Indonesia's Exclusive Economic Zone Indonesian Exclusive Economic Zone

An archipelagic state is a state which consists entirely of one or more islands and may include other islands. Whereas what is meant by archipelago is a group of islands, including parts of islands, and the waters between these islands, and other natural forms which are so closely related to one another that the islands, waters and other natural features form a single unit. geographical, economic, defense and political nature or historically deemed to be such.

The Exclusive Economic Zone is a relatively new maritime legal institution that was not yet recognized in the 1958 Geneva Maritime Law Convention. The Exclusive Economic Zone

can be seen as the culmination point of the crystallization process of unilateral claims by countries with various names and substances, both in terms of individually and collectively regarding fishing on the high seas bordering their respective territorial seas. These unilateral claims occurred continuously, both before the 1958 Geneva Law of the Sea conference and afterward until the 1973-1982 UN law of the sea conference.

In general, what is meant by the Exclusive Economic Zone can be defined as the part of the waters (sea) located outside of and bordering the territorial sea with a width of 200 (two hundred) nautical miles measured from the baseline from which the width of the territorial sea is measured.

Indonesian waters are Indonesia's territorial seas along with archipelagic waters and inland waters.

In accordance with Article 3 of Law Number 6 of 1996 concerning waters, Indonesian territorial waters:

1. Indonesia's territorial waters include the Indonesian territorial sea, archipelagic waters and inland waters.
2. The Indonesian territorial sea is a sea lane 12 (twelve) nautical miles wide as measured from the baseline of the Indonesian archipelago as intended in article 5
3. Indonesian archipelagic waters are all waters located on the inside of the straight baseline of the archipelago without regard to depth or distance from the coast
4. Indonesian inland waters are all waters that are located on the land side of the low water line on the coasts of Indonesia including all parts of the waters that are located on the land side of a closure line as referred to in Article 7.

Legal Principles in the Exclusive Economic Zone

The principle of legality is formulated in Latin, so it is very possible that some people think that this formulation comes from an ancient Roman formula, actually according to Moeljatno, neither this adigum nor the principle of legality is known in ancient Roman law. Likewise according to Sahetapy, who stated that the principle of legality was formulated in Latin solely because Latin was the language of the 'world of law' used at that time. There are those who think that this principle was written down and comes from Roman law, but this is not the case. In the republican era and in the Roman era, this principle was not found in the rules. This principle in Latin was formulated by von Feuerbach at the beginning of the 19th century and is a product of the classical school.

In accordance with the criminal provisions in Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning fisheries, the criminal provisions regulated in article 85 state: "everyone who deliberately in the Indonesian Fish Cultivation Territory owns, controls, carries, and/or uses fishing gear and/or fishing aids on fishing vessels that do not comply with the stipulated sizes, fishing gear that does not comply with with the requirements, or standards set for certain types of equipment and/or prohibited fishing tools as intended in article 9, with a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah)"

Article 92 of Law Number 31 of 2004 concerning fisheries states: "Every person who intentionally carries out fishery business in the fisheries management area of the Republic of

Indonesia in the field of catching, cultivating, transporting, processing and marketing fish, and who does not have a SIUP as intended in article 26 paragraph (1), shall be punished with a maximum imprisonment of 8 (eight) years and a maximum fine of Rp. 1,500,000,000.00 (one billion five hundred million rupiah). The application of the principle of legality which states that there is no crime if there is no mistake, in this study the application of the principle of legality is carried out by every person or foreign fisherman who has been determined because of the actions of every person or foreign fisherman by fishing in the Indonesian Exclusive Economic Zone which does not have SIPI and SIUP will be punished with imprisonment and a fine in accordance with the applicable laws and regulations”.

Fishery Crime committed by foreign fishermen in the Indonesian Exclusive Economic Zone

Fisheries criminal offenses are regulated in fisheries criminal provisions specifically in Article 84 to Article 104 of Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning fisheries. This criminal provision is a criminal act outside the Criminal Code (KUHP) which is regulated as deviant, because the criminal act can cause damage to fisheries management which results in harm to the community, nation and state.

In article 18 of Law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone it states: "*Criminal acts as referred to in Article 16 and Article 17 are crimes*". The crimes referred to in this article are acts that are contrary to Article 5 of law Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone, which states that Exploration and/or exploitation in the Indonesian Exclusive Economic Zone must have a permit from the Indonesian government or international approval. The crime in this study is a crime that catches fish or Illegal Fishing by foreign fishermen and regarding the prohibition of foreign fishermen or fishermen who do not have a SIUP or SIPI who catch, cultivate, manage fish in the Indonesian Exclusive Economic Zone which is still the territory of Indonesian waters

In this case, every person or fisherman or foreign fisherman who fishes in the Indonesian Exclusive Economic Zone within the Indonesian fisheries area is prohibited from using response equipment that is not in accordance with statutory regulations. Fishing regulations in the Indonesian Exclusive Economic Zone are mandatory to have a SIUP and SIPI for fishing vessels, permits for fish transport vessels, for vessels transporting fish as well as regulations regarding foreign nationals carrying out fishing businesses in Indonesian territory, except for fishing in the Zone. Indonesia's Exclusive Economy. Fishing Permit, hereinafter referred to as SIPI, is a written permit that must be owned by every fishing boat to catch fish which is an integral part of SIUP. And for fishery business license, hereinafter referred to as SIUP, is a written permit that must be owned by a fishing company to conduct fishery business using the production facilities listed in the permit.

Law Enforcement Against Foreign Fishermen Who Do Fishing in the Waters of North Sumatra, the Malacca Strait in the Indonesian Exclusive Economic Zone Fisheries Law Enforcement in Indonesia's Exclusive Economic Zone

In carrying out law enforcement in the Exclusive Economic Zone area, it is regulated in article 13 of Law Number 5 of 1983 concerning the Exclusive Economic Zone which reads:

"In order to implement sovereign rights, other jurisdictional rights and obligations as intended in article 4 paragraph (1), the authorized law enforcement apparatus of the Republic of Indonesia can adjudicate law enforcement actions in accordance with Law Number 8 of 1981 concerning the Book of Criminal Procedure Law, with the following exceptions:

1. Arrest of ships and/or people suspected of committing violations in the Indonesian Exclusive Economic Zone includes stopping the ship until the ship and/or people are handed over to the port where the case can be processed further.
2. The handover of the ship and/or person must be carried out as quickly as possible and must not exceed 7 (seven) days, unless there is a Force Majeure situation.
3. "For the purposes of detention, criminal acts regulated in articles 16 and 17 are included in the category of criminal acts as intended in article 21 paragraph (4) letter b of Law Number 8 of 1981 concerning the Criminal Procedure Code."

Regarding the law enforcement apparatus in the Exclusive Economic Zone area, it is clear and clear that the law enforcement apparatus in the field of investigations in the Indonesian Exclusive Economic Zone is an Indonesian Navy officer appointed by the Commander of the Armed Forces of the Republic of Indonesia, this is in accordance with what is contained in the provisions of article 14 Law Number 5 of 1983 concerning the Exclusive Economic Zone.

In order to realize law enforcement in the fisheries sector which has been regulated in this Legislative Regulation properly, which is more effective, the Minister issued Regulation Number per.13/men/2005 concerning the coordination forum for handling criminal acts in the fisheries sector which is the implementing regulation of article 73 paragraph (3) Law Number: 31 of 2004. Article 1 of the Minister of Maritime Affairs and Fisheries Regulation No, 13/Men/2005 specifically regulates the position of carrying out investigative duties smoothly and to facilitate communication and exchange of data, information and other matters. other things necessary for the effectiveness and efficiency of handling and/or resolving criminal acts in the fisheries sector in an integrated manner, a coordination forum for handling criminal acts in the fisheries sector is established.

Criminal Sanctions Against Foreign Fishermen Who Catch Fish in Indonesia's Exclusive Economic Zone

Punishments in the form of high imprisonment and heavy fines against perpetrators of fishing crimes with the aim of creating a deterrent effect. Perpetrators who are proven guilty apart from being obliged to serve years of imprisonment, are also obliged to pay a fine to the state which is not small in value. Criminal sanctions within the Indonesian Exclusive Economic Zone in accordance with article 16 Number 5 of 1983 concerning the Indonesian Exclusive Economic Zone which states:

1. Whoever commits actions that are contrary to the provisions of Article 5 paragraph (1) Article 6 and Article 7 shall be punished with a maximum fine of Rp. 225.000.000,- (two hundred twenty five million rupiah)
2. The judge in his decision can determine the confiscation of the results of activities, ships and/or other equipment used to commit the criminal act referred to in paragraph (1)

3. Any person who deliberately carries out actions that cause environmental damage and/or pollution of the environment in the Indonesian Exclusive Economic Zone, is threatened with criminal penalties in accordance with applicable laws and regulations in the environmental sector.

Based on the article above, it is clear that all actions and actions taken by foreign fishermen who catch fish in the fisheries management area, precisely in the Indonesian Exclusive Economic Zone, can be punished with a maximum fine of Rp. 225,000,000, the weak statement in this article does not emphasize that if the fine is not paid then there is no other article or criminal sanction of imprisonment or corporal punishment that can ensnare or punish criminal offenders or foreign fishermen who catch fish in the Indonesian fisheries management area precisely in the Indonesian Exclusive Economic Zone.

Criminal Liability For Foreign Fisherman Who Catch Fishing in Indonesia's Exclusive Economic Zone According To Decision Number 5/Pid.Sus.Prk/2019/PN.Mdn Criminal Liability to Foreign Fishermen

Criminal liability for foreign fishermen who catch fish in the Indonesian Exclusive Economic Zone applies to every person or legal entity in accordance with the provisions in article 4 of Law Number 45 of 2009 states:

1. every person, whether Indonesian citizen or foreign citizen and Indonesian legal entity or foreign legal entity, who carries out fishing activities in the fisheries management area of the Republic of Indonesia;
2. every Indonesian-flagged fishing vessel and foreign-flagged fishing vessel, which carries out fishing activities in the fisheries management area of the Republic of Indonesia;
3. every fishing boat with the Indonesian flag that catches fish outside the fishery management area of the Republic of Indonesia;
4. every Indonesian-flagged fishing vessel that carries out fishing, either individually or jointly, in the form of cooperation with foreign parties.

However, the application to foreign fishermen who fish in paragraph (4) of article 4 of law number 45 of 2009 concerning fisheries is contrary to article 102 of law number 45 of 2009 concerning fisheries which states that the provisions on imprisonment do not apply to criminal acts. in the field of fisheries which occurs in the fisheries management area of the Republic of Indonesia as intended in article 5 paragraph (1) letter B, unless there is an agreement between the government of the Republic of Indonesia and the State concerned. Therefore, it can be concluded that criminal acts in the fisheries sector committed by foreign citizens or foreign fishermen who fish in the Indonesian Exclusive Economic Zone cannot be held criminally responsible. This is only possible if a criminal act is committed in the territorial sea area. Unless there is already an agreement between the Republic of Indonesia and the country concerned.

Every action must be accounted for. Which every act committed by foreign fishermen who do not have SIPI and SIUP must be held accountable for the crime committed by the foreign fisherman because every act committed by foreign fishermen by fishing in the Indonesian Exclusive Economic Zone must be held accountable for the crime with an element

of criminal responsibility that has been carried out intentionally fishing in the Indonesian Exclusive Economic Zone by committing acts of the nature of resistance and making mistakes by fishing in the Indonesian fishery management area, it is appropriate if every person or foreign fisherman who catches fish in the Indonesian Exclusive Economic Zone is held accountable for his crime with a crime such as corporal punishment.

However, the problem arises because in this fisheries case it is precisely in the fisheries management area of the Indonesian Exclusive Economic Zone, where the judge in deciding the punishment is a fine and does not include additional penalties such as imprisonment or imprisonment, which if the foreign fisherman or foreign citizen does not are able to pay the fine, they will be subject to imprisonment or imprisonment, however, if foreign fishermen do not pay the compensation or fine, no other sanctions will be imposed on foreign fishermen or foreign citizens. Indonesia's fisheries laws are so weak.

Position Case Case Position of Foreign Fishermen Who Fish in the Indonesian Exclusive Economic Zone According to Decision Number: 5/Pid.sus.Prk/2019/PN.Mdn

The decision made by the district court in Medan with decision number 5/Pid.sus.Prk/2019/PN.Mdn dated 26 June 2019 has sentenced the defendant THAN ZAW NAING to a fine of Rp. 1,000,000,000.00 (one billion rupiah) legally and convincingly that the defendant THAN ZAW NAING committed a criminal act. Operating a foreign-flagged fishing vessel to catch fish in ZEEI which does not have a SIPI. So the judge's decision stated that the Defendant THAN ZAW NAING had been legally and convincingly proven guilty of committing the crime of "Operating a foreign-flagged fishing vessel to catch fish in ZEEI which does not have a SIPI" and sentenced the Defendant THAN ZAW NAING to a fine. Rp. 1,000,000,000,- (one billion rupiah), and Determine the evidence in the form of: 1 (one) unit of Fishing Vessel KM. PKFB 1109 GT.50.99, 1 (one) set of trawl nets as fishing gear, 1 (one) Lessen Vessel Number: Serial: F001739 An: KM. PKFB 1109 GT. 50.99;

Which Each piece of evidence used as a criminal act of fishing in the Indonesian Exclusive Economic Zone committed by the defendant as a foreign fisherman was confiscated for destruction: 1 (one) GPS unit Brand JMC Model V-6802P; KP.626 Number : Series 6263657, 1 (one) unit of compass, 1 (one) radio unit of Motorola XiR M8260 brand, Mixed Fish weighing 1,070 Kg (one thousand seventy kilograms) which has been sold for Rp. 2,140,000.- (two million one hundred and forty thousand rupiah) "Confiscated for the State" and charged the Defendant with paying court fees of Rp. 5,000.- (five thousand rupiah).

A decision is the result or conclusion of something that has been carefully considered and assessed which can be in written or oral form. This is stated in the book "Legal Terminology in Practice" issued by the Attorney General's Office of the Republic of Indonesia in 1985 on page 221. This formulation feels inaccurate. Furthermore, if you read the book, it turns out that the verdict and decision are mixed up. Related to this, there are also those who interpret the verdict as a definitive verdict. Inaccurate formulations occur as a result of translators being linguists who are not legal experts. On the other hand, in ongoing legal development, care is required in the use of terms. The judge's decision is the end of a series of examination processes in a case. Before making a decision,

The judge is God's representative on earth. The title of being the representative of God

deserves to be pinned on the shoulders of a judge because it is in his hands that the fate and lives of humans are determined. So the Judge's Decision is a statement from a judge in deciding a case in court and has permanent legal force. Based on the theoretical vision and practice of justice, the judge's decision is: "The decision pronounced by the judge because of his position in a criminal case trial which is open to the public after going through the process and procedural law of criminal procedure generally contains a verdict of punishment or acquittal or release from all legal charges. made in written form with the aim of settling the case.

Before the panel of judges imposes on the defendant for a case, the panel of judges also has previous considerations. One of the main considerations for judges in imposing sentences is the indictment of the public prosecutor. In the sentencing of the crime against the defendant THAN ZAW NAING, the panel of judges determined that the defendant THAN ZAW NAING was punished with a fine of Rp. 1,000,000,000.00 (one billion Rupiah). The author disagrees with the judge's decision which sentenced him to a fine. And also the author does not agree with the demands of the public prosecutor who demands a fine of Rp. 1,000,000,000.00 (One Billion Rupiah) and Rp. 500,000,000.00 (Five Hundred Million Rupiah).

The panel of judges should have decided that there should be imprisonment or imprisonment for foreign fishermen who fish in the Exclusive Economic Zone, which is in accordance with the article that has been decided by the panel of judges in Article 93 paragraph (2) in conjunction with Article 27 paragraph (2) Law Number 45 of 2009 regarding amendments to Law Number 31 of 2004 concerning Fisheries and Law Number 8 of 1981 concerning Criminal Procedure Law and other relevant laws and regulations; Where is the content of Article 93 paragraph (2) in conjunction with Article 27 paragraph (2) of Law Number 45 of 2009 regarding amendments to Law Number 31 of 2004 concerning Fisheries which states:

1. Every person who owns and/or operates an Indonesian-flagged fishing vessel carrying out fishing in the fisheries management of the Republic of Indonesia and/or on the high seas which does not have a SIPI as intended in article 27 paragraph (1), shall be punished with a maximum imprisonment of 6 (six) years and a maximum fine of Rp. 2,000,000,000.00 (two billion rupiah)
2. Every person who owns and/or operates a foreign-flagged fishing vessel carrying out fishing in the fisheries management area of the Republic of Indonesia, which does not have a SIPI as intended in article 27 paragraph (2) shall be punished with imprisonment for a maximum of 6 (six) years and a fine of a maximum Rp. 20,000,000,000.00 (twenty billion rupiah).

In this article, it is clearly stated how the content of the article is to provide legal witnesses, imprisonment for a maximum of 6 (six) years and a maximum fine of Rp. 20,000,000,000.00 (twenty billion rupiah). Which is the result of the defendant being a foreign fisherman who catches fish in the Indonesian Exclusive Economic Zone which has a negative impact on our fishermen. So, based on the results of the research, the judge's decision lacks a place because the actions carried out by foreign fishermen who fish in the Indonesian Exclusive Economic Zone have had a negative impact on the public, especially Indonesian fishermen, and it is appropriate that they receive a prison sentence, not just a fine, because the sentence is increased. fines are less effective and very weak to implement this decision because in the

judge's decision there is no stipulation for how long the fine will be paid and there are no other witnesses included if the fine is not paid, so if the fine is not paid, who will pay it? ? Is the fisherman's country of origin or is it just being ignored?

CONCLUSION

Based on the results of the research conducted can be concluded as follows:

1. The application of the Legality Principle to fishing carried out by foreign fishermen in the Indonesian Exclusive Economic Zone is in accordance with the provisions of article 93 paragraph 2 of Law No. 45 of 2009 concerning amendments to Law Number: 31 of 2004 concerning fisheries. The application of the principle of legality to foreign fishermen who fish in the Indonesian Exclusive Economic Zone in this research shows criminal acts committed by these foreign fishermen.
2. Law enforcement against foreign fishermen who catch fish in the waters of North Sumatra, the Malacca Strait in the Indonesian Exclusive Economic Zone is in accordance with statutory regulations in Law Enforcement in Law number 45 of 2009 concerning amendments to Law number 31 of 2004 concerning fisheries .
3. Legal responsibility for foreign fishermen who catch fish in the Indonesian Exclusive Economic Zone According to Decision Number: 5/Pid.Sus.Prk.2019/PN.Mdn in this decision that the criminal responsibility for the defendant THAN ZAW NAING or the foreign fishermen is with criminal responsibility for a fine of Rp. 1,000,000,000 (one billion rupiah) with the criminal act of catching fish in the Indonesian Exclusive Economic Zone without SIUP and SIPI and using fishing boats, trawl type as fishing gear, compass, radio and the result of the catch is mixed fish -mix weighing 1,070 kg (one thousand seventy kilograms) which has been sold for Rp. 2,140,000 (two million one hundred and forty thousand rupiah).

Suggestions

The suggestions that the author can give after researching and analyzing the results and discussion of criminal cases against foreign fishermen who fish in the Indonesian Exclusive Economic Zone are:

1. In applying the principle of legality in fishing carried out by foreign fishermen in the Indonesian Exclusive Economic Zone, the Indonesian state needs to be serious about dealing with fishing in the Indonesian Exclusive Economic Zone because of the weak penalties given to foreign fishermen by providing fines and no corporal punishment against fishermen. the foreigner.
2. Regarding law enforcement against foreign fishermen who fish in the waters of North Sumatra, the Malacca Strait in the Indonesian Exclusive Economic Zone, where law enforcement in the Indonesian Exclusive Economic Zone is currently ineffective and weak law enforcement officers and laws are necessary and must be improved for State security. There is a need for law enforcement to be more serious in handling fishing cases. With increasing focus on law enforcement, Indonesian law will become more advanced, and Indonesian fishermen will not feel disadvantaged by the actions of foreign fishermen;

3. Regarding criminal responsibility for foreign fishermen who fish in the Indonesian Exclusive Economic Zone According to Decision Number: 5/Pid.Sus.Prk.2019/PN.Mdn, by imposing a fine, where this fine is very weak because there is no clarity regarding The foreign fishermen are required to pay criminal fines, so in this research the decision should include corporate criminal penalties and increase the criminal fine budget so that if every person or foreign fisherman does not pay the criminal fine, then corporal punishment will be imposed. So the panel of judges in deciding the case in this research set aside Article 102 of the Fisheries Law in order to apply responsibility to foreign fishermen in accordance with Article 93 paragraph 2 because they know that punishment against foreign fishermen has often occurred in the Indonesian Exclusive Economic Zone for fishing that is very detrimental to the country and foreign fishermen.

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