

TYPE: RESEARCH ARTICLE/REVIEW ARTICLE

Due to The Law The Criminate Person Have Dam Control of Bomb Explosives Without Rights and Without Permission (Verdict 1107/Pid.Sus/2020/PN.Tjk)

Bambang Hartono¹, Nurul Shyashya²✉, Zainudin Hasan³
^{1,2,3} Faculty of Law, Bandar Lampung University, Bandar Lampung, Indonesia

✉Corresponding Email: nurulshya10shya@gmail.com

Citation

Hartono, B. ShyaShya, N. Hasan, Z (2022). Due to The Law The Criminate Person Have Dam Control of Bomb Explosives Without Rights and Without Permission (Verdict 1107/Pid.Sus/2020/PN.Tjk). *IJCLS (Indonesian Journal of Criminal Law Studies)*, 7(2), 245-274

History of Article

Submitted: 30 June 2022
Revised: 25 August 2022
Accepted: 15 November 2022

About Author(s)

Please describe all authors biographies, including the current activities and working, expertise, publication, grant and award, and any important information for readers.

IJCLS (Indonesian Journal of Criminal Law Studies) published by the Faculty of Law, Universitas Negeri Semarang, Indonesia. Published biannually every May and November.

ABSTRACT

The manufacture of low explosive explosives without a permit is very dangerous. It's not just a violation of the permits that have been set, but rather the level of security of the explosives. This crime against the manufacture of low explosive explosives without a permit has been formulated in the Emergency Law no. 12 of 1951 concerning Firearms and Explosives. This type of research used normative juridical and empirical juridical methods. Based on the results of the research and discussion, it is known that the Investigation Process in the case of the Crime of Possessing Unauthorized and Unlicensed Bomb Explosives is in accordance with the Investigation Procedure according to the elements contained in the criminal act, namely Whoever, Investigation, Investigation, and Arrest. The process of proof in terms of proof is one of the important elements in criminal procedural law which determines the guilt or innocence of a defendant in a trial. Legal Consequences of the Crime of Possessing Unauthorized and Unlicensed Bomb Explosives based on evidence in court.

KEYWORDS

Explosive,; Investigation, proof, Because of law..

Copyright © The Author(s). See our **Copyright Notice**



This work is licensed under a [Creative Commons Attribution-ShareAlike 4.0 International License](#). All writings published in this journal are personal views of the authors and do not represent the views of this journal and the author's affiliated institutions.

1 INTRODUCTION

Law regulates human behavior or actions in society. Rules contain orders and prohibitions to do something or not to do something. This is intended to regulate human behavior so that it does not interfere and harm the public interest. Legal regulations are determined by the institution or body authorized to do so. Legal regulations are not made by everyone but by institutions or bodies that do have the authority to establish binding rules for the wider community.

Enforcement of the rule of law is coercive. Laws are not made to be broken, but to be obeyed. To enforce it, it is also stipulated that the apparatus authorized to monitor and enforce it even with repressive measures. The term criminal act is a translation of the term strafbaar feit in the Dutch Criminal Code which is currently applied as national law through the principle of concordance with the Criminal Code (KUHP).

A criminal act is a violation of norms in three other fields of law, namely civil law, constitutional law, and government administrative law, which the legislators respond to with a criminal law. violates the law, because there is no criminal act without breaking the law. (Wirjono Prodjodokoro. 2003.)

A person is said to have committed a criminal act, if his act is proven to be a criminal act as regulated in the applicable criminal laws and regulations. However, someone who has been proven to have committed a criminal act cannot always be punished. This is because in criminal liability, it is not only seen from the actions, but also from the element of guilt. (Moeljatno. 1993.)

In criminal liability there is a principle, namely not being punished if there is no mistake (Geen straf zonder schuld; Actus non facit reum nisi mens sir rea).

Crime is a basic understanding in criminal law. Crime is a juridical understanding. It is different with the term evil act or crime which can be interpreted juridically (law) or criminologically.

It can be interpreted that someone can be sentenced to a crime, then that person has not only committed a criminal act, but there is also an element of error in his

actions and also a perpetrator of the criminal act has fulfilled the element of ability to be responsible. Criminal liability is intended to determine the condition of a perpetrator of a criminal act against whether or not a perpetrator can be sentenced to a criminal act that has been committed. In criminal liability there are several conditions that influence, so that someone who commits a criminal act can be punished. In order to be able to convict the perpetrator of a criminal act, it is required that the criminal act he commits must meet the elements that have been determined in the criminal legislation, besides that it is also seen from the point of view of the ability to be responsible for the perpetrator whether the perpetrator is capable of being held criminally accountable or not. (Saifudien. 2009.)

Regarding the content of the definition of a crime, there is unity of opinion among scholars. According to the teaching of Causality (causality relationship) it is stated that basically everyone must be responsible for all the actions they do, but there must be a causal relationship between actions and consequences that are prohibited and threatened with punishment. This is not always easy, events are a series of events and no effect arises without a cause.

One of the elements in a criminal act is an element against the law. If in an act there is an element against the law as contained in criminal legislation, then the act is called a criminal act. Moeljatno defines a criminal act as an act that is prohibited by a rule of law, and the prohibition is accompanied by threats (sanctions) in the form of certain crimes for anyone who violates the prohibition. Prohibition is aimed at actions (a condition or event caused by someone's actions). Meanwhile, the criminal threat is aimed at the person who committed the act. (Moeljatno, 1993.)

In the ability to be responsible, the first is to look at the reason factor, namely whether the perpetrator can distinguish between what is allowed and what is not. Then it is also seen on the feeling or will of the perpetrator, namely whether he can adjust his behavior with awareness of what is allowed and what is not. Therefore, if a perpetrator of a criminal act commits a criminal act and is unable to determine his will according to an awareness of the good and bad of his actions, then the perpetrator is considered to have no fault and cannot be held criminally accountable.

In purpose, there are two related theories, namely the theory of will and the theory of knowledge. In the theory of intentional will, it is a will that is directed at the realization of actions as formulated by law. Meanwhile, according to the theory of knowledge, there are two ways to prove it was intentional, namely the existence of a causal relationship in the mind of the accused between motive and purpose, or proving the existence of awareness of what was done and the consequences. Then in

criminal liability, it is also seen from the point of view of the existence of justifying reasons or excuses that eliminate criminal liability.

The reasons for justifying or forgiving a crime are contained in the Criminal Code, namely in Book I Chapter III Article 44, Article 48, Article 49, Article 50, and Article 51 of the Criminal Code. In these articles, it is stated that things that abolish the imposition of a crime, namely: inability to be responsible, coercive power (*overmacht*), forced defense, provisions of the law, and legal office orders. With justification or forgiving reasons, it eliminates criminal liability for someone who has committed a criminal act.

In violation of a rule of law, it is generally the government that acts against the violation. Through the means of coercion, the government can force everyone to behave according to the rules of social order, especially the legal order in society. In violation of the law, generally those who receive losses (by the violator) are assisted by the government. Sanctions in Indonesian are taken from the Dutch language '*sanctie*', in the famous *poenale sanctie* during the Dutch colonial period in Indonesian history. In Indonesia, in general, there are at least three types of legal sanctions, namely: criminal sanctions, civil law sanctions, administrative/ administrative sanctions.

Criminal sanctions are suffering or sorrow that is imposed on people who carry out actions that meet certain elements of the requirements, while Roeslan Saleh asserts that punishment is a reaction to an offense, and takes the form of sorrow that the State has intentionally delegated to the perpetrator of the offense. (Tri Andrisman. 2009.)

In criminal law, legal sanctions mean punishment. In the sense of an unpleasant feeling (miserable) imposed by a judge with a verdict on people who have violated the criminal law law. The sentence has been regulated in article 10 of the Criminal Code (KUHP), namely:

The main penalty is divided into 4 points:

- a. death penalty
- b. prison sentence
- c. confinement
- d. fine penalty

Additional punishment, divided into:

- a. Revocation of certain rights
- b. confiscation of certain items
- c. Announcement of judge's decision

Sanctions in the legal context are punishments imposed by courts, while in the context of sociology, the meaning of sanctions is social control. Sanctions imposed by the court or in a legal context are certainly more severe and binding because they have legal force. If someone violates the law then he will be subject to sanctions, if sanctions are sanctions in a sociological context, they can also be sanctions in a legal context.

Criminal sanctions are a manifestation of the misery of an act violating the law, it is an absolute criminal goal, where punishment is a recompense for the perpetrator's actions so that a sense of deterrence arises and also to meet public demands. Many people think that someone who is subject to criminal sanctions will feel a deterrent or a sense of sorrow, but in fact not all criminal sanctions have a deterrent effect and a sense of sorrow, this arises because the sanctions imposed on perpetrators of crime tend to be just a formality, where policy makers The legislation considers a rule of law without sanctions to be like a lion without fangs, even though the fangs on a lion are just plastic fangs.

Sanctions in criminal law are much harsher than the consequences of other legal sanctions, but there are also experts who argue otherwise, that criminal law does not establish a new norm but emphasizes mere sanctions as a criminal threat so that criminal law is a mere law of sanctions. (Marlina. 2011.)

The purpose of punishment is to prevent future crimes from being committed, the purpose of holding punishment is to know the basic nature of the crime, that in the context it is said that hugo de groot "malum pasisionis propter malum actionis" i.e. evil suffering befalls caused by evil deeds.

It is not enough to only understand the meaning and understanding of criminal sanctions, it is necessary to understand criminal law and the crime itself. Most legal experts argue that criminal law is a collection of rules that contain prohibitions and will receive criminal sanctions or penalties if violated.

The definition of a crime is all actions that are contrary to legal principles. In criminal law, a violation of the law is called an unlawful act (*wederrechtelijke handeling*), in other words, a violation of the law is for criminal law that contains elements against the law. Among the violations of the law there are some that are threatened with criminal penalties.

The definition of possession of explosives is possessing, storing, possessing, carrying, explosives including all explosive items, all types of munitions, bombs, incendiary bombs, mines (*mijnen*), hand grenades and in general all explosives, both

of which are single chemical yields or which are mixtures of explosives or incoming explosives used to detonate. (Rudy T. Erwin and JT Prasetyo. 1990)

Explosives are very dangerous materials and need to be monitored from procurement, transportation, storage, use to their destruction. Therefore, the system of guidance and supervision must be precise and strict, so that the possibility of being misused by irresponsible people can be minimized. As a dual ammunition agent, on the one hand, explosives are useful to support the smooth implementation of national development, but will be very dangerous if misused, especially for the purposes of terrorism.

The act of possessing explosives is an offense in which the act is illegal because it is owned without the permission of the competent authorities. A person will be convicted after fulfilling two conditions which become one condition, namely: first, the act is against the law (as the joint of a criminal act). The two actions committed can be accounted for (as a joint error). (Nafi' Mubarak. 2017.)

The decision to impose a sentence must be determined by the existence of a criminal act and the existence of an error that is proven by evidence and by the judge's conviction against an accused who is being prosecuted before the Court. (Bambang Poernomo. 1993.)

The defendant Heri Amboman Bin Ambo Upe Alm, was legally and convincingly proven guilty of committing a crime "Without the right to try to hand over, control, carry, have stock with him or have in his possession any explosives as regulated in Article (1) of the Emergency Law Number 12 In 1951 the evidence in the form of 1 (one) black plastic bag wrapped in white plastic containing + 5 (five) kg of ampo potassium chloride powder/powder and 50 (fifty) wicks/KIP/Detonator 3 (three) samples were taken.) tablespoons of ampo potassium chloride powder/powder and 3 (three) wicks/KIP/Detonator, 1 (one) black Nokia brand mobile phone and 1 (one) OPPO A9 brand cell phone, confiscated for destruction, while money the remaining purchase amounting to Rp.360.000,00 (three hundred and sixty thousand rupiahs) shall be confiscated for the state.

The Public Prosecutor demanded a crime against the defendant Heri Amboman Bin Ambo Upe Alm with a prison sentence of 2 (two) years reduced as long as the defendant was undergoing a temporary detention period with an order that the defendant remain detained. The Tribunal decided that the Defendant was sentenced to imprisonment for 1 (one) year and 6 (six) months proven to possess and control a bomb explosive without rights and without a permit.

2 Method

The research method used is a normative juridical legal research method, the approach used in legal research is the statute approach. Normative legal research is legal research conducted by examining the literature or mere secondary data (Soekanto & Mamudji, 2012). The technique of collecting data uses the literature study method. The method used in this study is a qualitative descriptive method (Anonym, 2015). This method provides a special description of data collected systematically. In normative legal research that examines this secondary data, the presentation of data is done simultaneously by analyzing it.

3 RESULT AND DISCUSSION

A. The Investigation Process in The Crime of Possessing Explosives Without Rights and Without Permission

According to Wirjono Prodjodokoro in his book, he explains that criminal acts are the basic understanding of criminal law. Crime is a juridical understanding, it is different from the term evil or crime. In formal juridical, crime is a form of behavior that violates the criminal law. Therefore, every act that is prohibited by law must be avoided and anyone who violates it will be subject to punishment. So certain prohibitions and obligations that must be obeyed by every citizen must be included in laws and government regulations, both at the central and regional levels. A criminal act is a human behavior that is formulated in law, against the law, which deserves to be punished and committed with error. A person who commits a criminal act will be held accountable for a criminal act if he has an error, a person has an error if at the time of committing the act, viewed from the perspective of society, it shows a normative view of the error committed. A criminal act is an act of doing or not doing something that has an element of error as an act that is prohibited and is threatened with a crime, where the imposition of a crime against the perpetrator is for the sake of maintaining legal order and guaranteeing the public interest. (Wirjono Prodjodikoro. 2002.)

Based on Article 1 paragraph (1) of the Emergency Law of the Republic of Indonesia Number 12 of 1951, the crime of possessing explosives without rights and without permission by a person or group of people can be interpreted as an act of surrendering, controlling, carrying, having stock with him or having it in his possession, store, something explosive.

According to Kompol M N Yuliansyah as Head of Sidik Sub-Directorate for Gakum at the Directorate of Water Police at the Lampung Police, the crime of possessing explosives without rights and without a permit is not a new thing and is happening in Indonesia. The word possessing explosives without rights and without permission can be interpreted as the act of a person or group of people who surrenders, controls, carries, has stock with him or has in his possession, keeps, an explosive material without permission. Based on Article 1 paragraph (3) of the Emergency Law of the Republic of Indonesia Number 12 of 1951 What is meant by the meaning of explosive materials including all items that can explode, as referred to in the Ordonnantie dated September 18, 1893 (Stbl. 234), which was later amended once with the Ordonnantie of 9 May 1931 (Stbl. No. 168), all kinds of machines, bombs, incendiary bombs, mines (mijnen), hand grenades and in general all explosives both chemically yielded single (enkelvoudige chemische verbindingen) or which is a mixture of explosives (explosieve sels) or incoming explosives (inleidende explosieven), which are used to detonate other explosives, but are not included in the definition of munitions. The act of possessing explosives without rights and without a permit is an unlawful act, which can be classified as a criminal act.

Based on the results of an interview with the convict Heri Amboman Bin Ambo Upe, the late occurrence of a criminal act of possessing explosives without rights and without a permit is due to the following reasons:

1. That the perpetrators possess explosives without rights and without a permit is based on economic factors. The perpetrator has no other livelihood in his area other than being a liaison between fishermen and explosives sellers. So that to get quick results to meet household needs, the perpetrators carry out these actions.
2. That which encouraged the perpetrators to possess explosives without rights and without knowing that the use of potassium in fishing is prohibited. The perpetrator also said he did not know the impact that would be caused by using potassium as an explosive.

According to MN Yuliansyah as Head of Sidik Subdit Gakum at the Directorate of Water Police at the Lampung Regional Police, what is meant by unlawful acts in the form of possessing explosives without rights and without permission is "an intentional act that unlawfully surrenders, controls, carries, has supplies to him or has in his, kept, something explosive. The elements of an unlawful act in the form of possessing explosives without rights and without permission are the action by the

perpetrator, the intention (desire), surrendering, controlling, carrying, having stock with him or having in his possession, storing, something explosive.

According to M N Yuliansyah, the handling of the investigation process of possessing explosives without rights and without a permit, of course, can use ordinary offenses or complaint offenses. In the process of law enforcement, the defendant M N Yuliansyah began with a report or information from members who reported that the defendant was conducting a buying and selling transaction of explosives in the jurisdiction of the Lampung Regional Police. After that, members of the Directorate of Water Police at the Lampung Regional Police arrested the defendant and found evidence in the form of 1 (one) black plastic bag wrapped in white plastic containing + 5 (five) kg of ampo potassium chloride powder and 50 (fifty) wicks. The sample /KIP/Detonator is taken as many as 3 (three) tablespoons of ampo potassium chloride powder/powder and 3 (three) wicks/KIP/Detonator, 1 (one) black Nokia brand mobile phone and 1 (one) HP brand OPPO type A9. Then after the arrest has been made, it is submitted to the section that handles the report for further examination of reports of possessing explosives without rights and without permission. A person to be convicted is to meet the elements that exist in a criminal act. The crime of possessing explosives without rights and without a permit contained in the Emergency Law Number 12 of 1951 basically contains the following elements:

1. Whoever

According to Samsi Talib, S.H, M.H. as Assistant for General Crimes at the Lampung High Prosecutor's Office said that what is meant by "Whoever" is referring to everyone as a legal subject, a supporter of rights and obligations, in this case has been submitted to the trial of the Tanjung Karang District Court The defendant Heri Amboman Bin Ambo Upe Alm is a legal subject who meets the qualifications as a person who can be accounted for for his actions, in which there is no fault in persona found at all and against the defendant there is no excuse for forgiveness, justification or other reasons based on the law that can eliminate the nature of the crime. criminal responsibility so that it can stop criminal charges against the defendant;

2. Without the right to import into Indonesia makes, receives, tries to obtain, surrenders or tries to surrender, controls, carries, has stock with him or has in his possession, keeps, transports, hides, uses, or removes from Indonesia any firearm, ammunition or something explosives.

According to According to Samsi Talib, S.H, M.H. that in this article there is an alternative formulation of elements because there are several words "or", and the punctuation mark "comma" means that one of the element formulations is fulfilled, then the elements in this article must be declared fulfilled; Considering, that what is meant by "without rights" is an act carried out without the permission of the party authorized to give the permit.

According to Kompol M N Yuliansyah as Head of Sidik Subdit Gakum at the Directorate of Water Police at the Lampung Regional Police, the legal process for the criminal act of possessing explosives without rights and without permission through criminal procedure law, the stages in processing are as follows::

a. There is a report or complaint

Criminal justice begins with a report or complaint in which the complainant reports a person who is considered to have committed a crime. That a report on a criminal act of possessing explosives without rights and without a permit begins with reporting to the police or certain civil servants who are given special authority by (Article 6 of the Criminal Procedure Code).

1. A report is a notification that is submitted by a person because of the rights and obligations under the law to the competent authority regarding a criminal event that has been or is currently or is suspected to have occurred. (Article 1 point 24 of the Criminal Procedure Code).
2. A complaint is a notification accompanied by a request by an interested party to an authorized official to take legal action against a person who has committed a criminal offense against an adverse complaint. (Article 1 point 25). And the difference between Report and Complaint is as follows:

b. If the report :

1. the notification is a right or obligation that must be submitted to the authorized official.
2. is a general crime.

c. If Complaints :

1. The notification is accompanied by a request by the complainant, so that the competent authority takes action.
2. It is a criminal offense. That the land grabbing report is directly reported by the land owner to the police, then the police will receive the said report and then the report will be submitted to the section that handles the report for further inspection of the land grabbing report and then the following stages are carried out

d. Investigation

Investigation is a series of actions of investigators to seek and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out according to the method regulated by law (Article 1 point 5).

e. Investigation

An investigation is a series of actions by an investigator in terms of and according to the method regulated in this law to seek and collect evidence which with that evidence makes clear about the criminal act that occurred and in order to find the suspect (Article 1 Point 2 of the Criminal Procedure Code).

f. Arrest

Arrest is an investigator's action in the form of temporary restraint on the freedom of a suspect or defendant if there is sufficient evidence for the purposes of an investigation or prosecution and/or trial in matters and demands the method regulated in this law (Article 1 point 20 of the Criminal Procedure Code). An arrest can be made against a person who is strongly suspected of committing a crime in the form of a crime, which is based on sufficient preliminary evidence, by stating the reasons for the arrest and a brief description of the nature of the suspected crime case (Article 17 of the Criminal Procedure Code).

The purpose of the arrest is: according to Article 16 of the Criminal Procedure Code:

- a. For research purposes.
- b. For investigation purposes.
- c. Arrest in accordance with Article 19 paragraph (1) can only be carried out for a maximum of one day.
- d. Delegation of cases to the public prosecutor

In cases where the evidence is considered complete, this will not be a problem when the case will be transferred to the prosecutor's office. But there are also cases that are reported that cannot be submitted to the prosecutor's office, because

1. Because the case is not enough evidence.
2. The case is not a criminal act, or;
3. The case is terminated for the sake of law. So on that basis the investigator issued a "order to stop the investigation".

Based on the description above, it can be analyzed that the investigation process in a criminal act of possessing explosives without rights and without a permit (Decision Study 1107/Pid.sus/2020/Pn.Tjk) is the existence of a report or complaint, then the Police conduct an investigation to seek and find an event that is suspected of being a criminal act in order to determine whether or not an investigation can be carried out according to the method regulated by law. After the discovery of a criminal act, the Police conduct an investigation to search for and collect evidence that with that evidence makes clear about the crime that occurred and to find the suspect. And after determining the suspect, the police arrested and detained the suspect. Terhadap perkara yang dianggap lengkap pembuktiannya, this is not a problem when the case will be transferred to the prosecutor's office.

B. Proof of the Crime of Possession of Unauthorized and Unlicensed Bomb Explosives

According to Samsi Thalib as Assistant for General Crimes at the Lampung High Prosecutor's Office, he said that in terms of proof, it is one of the important elements in criminal procedural law which determines whether a defendant is guilty or not in a trial. The law of evidence is part of the criminal procedural law which regulates various types of evidence that are legal according to the law, the system adopted for proof, the requirements and procedures for submitting such evidence and the authority of the judge to accept, reject and evaluate a piece of evidence..

According to Andi Sofyan in his book, he explains that proof in criminal cases is different from proof in civil cases. In proving a criminal case (criminal procedural law) is aimed at finding the material truth, namely the true or actual truth, while proof in a civil case (civil procedural law) is aimed at seeking formal truth, meaning that the judge may not exceed the limits proposed. by the litigants. So the judge in seeking the formal truth simply proves it by "preponderance of evidence", while the criminal judge in seeking the material truth, the incident must be proven (beyond reasonable doubt).

The further discussion of the four theories in the criminal procedural law evidentiary system, as explained by criminal law experts, is as follows :

- a. Proof according to the law is positive (positive wettelijk bewijstheorie). According to Simons, that the system or theory of proof is based on the law in a positive way (positive wettelijke bewijs theory). to get rid of all subjective judgments of judges and bind judges strictly according to strict evidentiary rules. (Andi Sofyan. 2014)
- b. Evidence based on the judge's conviction only (conviction intime) It is a proof in

which the processes to determine whether or not the defendant is guilty are solely determined by the judge's conviction assessment. A judge is not bound by the various types of evidence available, the judge can use the evidence to obtain a conviction for the guilt of the defendant, or ignore the evidence by only using the beliefs that are inferred from the testimony of witnesses and the confession of the defendant.

- c. Evidence based on the judge's belief logically (conviction) *raisonnee*) That a proof that emphasizes belief a judge based on clear reasons. If the proof system conviction intime gives a judge the breadth without there is a limitation from where that belief arises, while in the conviction *raisonnee* proof system is a evidence that limits the conviction of a judge must be based on clear reasons. The judge is obliged to describe and explain for each reason what is the basis for his belief on the fault of a defendant.
- d. Negative proof based on law (negative) *wettelijk bewijs theotrie*) It is a mixture of positive conviction rationale and a positive legal system of proof. The formulation of this evidentiary system is, whether or not a defendant is wrong is determined by the judge's conviction based on methods and with valid evidence according to the law. (Tolib Effendi. 2014.)

According to Samsi Talib, the power of proof in criminal procedural law lies in Article 183 of Law Number 8 of 1981 concerning the Criminal Procedure Code, which reads "a judge may not impose a crime on a person unless with at least two valid pieces of evidence he obtains a conviction. that a criminal act has actually occurred and that the accused is guilty of committing it. Based on this provision, a judge in deciding a criminal case must be based on at least two valid pieces of evidence. Otherwise, the defendant cannot be sentenced for his actions.

The legal evidence as regulated in article 184 paragraph (1) of Law Number 8 of 1981 concerning the Criminal Procedure Code, namely as follows :

- a. Witness testimony;
- b. Expert statement;
- c. Letter ;
- d. Instruction ;
- e. Defendant's statement

According to M. Yahya Harahap in his book he explains that the five pieces of evidence have the same proving power in criminal proceedings. there is no difference

between each of the evidence from one another. The order as regulated in the article is only the order as in the trial examination.

According to Samsi Thalib in proving the crime of possessing explosive bombs without rights and without a permit (Decision study 1107/Pid.Sus/2020/Pn.Tjk), the Public Prosecutor presented the following evidence in the trial :

1. Witness Testimony

a. Witness Nurkholik Bin Sueb, under oath, basically explained as follows:

On Wednesday, July 15, 2020 at approximately 19.00 WIB at Jalan Teluk Bone, Karang City, Kec. Teluk Betung Timur, Bandar Lampung City, the witness together with Witness Alexandre Parulian Simorangkir, Witness Deni Purnianto and Witness Rio Saputra as members of the Ditpolairud Polda Lampung have arrested the defendant because based on information from the public that there would be explosives being sent from around Karang City with the aim of Bakauheni, South Lampung; - Whereas later from the arrest of the accused, evidence was found in the form of 1 black plastic bag wrapped in white plastic containing + 5 kg of ampo potassium chloride powder/powder, 50 wicks/KIP/Detonator, the remaining money for the purchase was Rp. 360,000,- and 1 unit of black Nokia branded mobile phone used by the defendant to communicate with Br. ACO LIST and the buyers of explosives, namely Witness Hermawan Bin Suroso and Br. RIRIN Whereas later from the arrest of the defendant, information was obtained that the witnesses who ordered explosives from the defendant were Witness Hermawan Bin Suroso and Br. RIRIN Whereas Witness Hermawan Bin Suroso obtained evidence in the form of 1 unit of OPPO A9 brand cellphone belonging to the Defendant which was used to communicate with witness Heri Amboman Bin Ambo Upe..

b. Witness Alexandre Parulian Simorangkir, under the promise, basically explained as follows:

On Wednesday, July 15, 2020 at approximately 19.00 WIB at Jalan Teluk Bone, Karang City, Kec. Teluk Betung Timur, Bandar Lampung City, the witness together with Witness Nurkholik Bin Sueb, Witness Deni Purnianto and Witness Rio Saputra as members of the Ditpolairud Polda Lampung have arrested the defendant because based on information from the public that there would be explosives being sent from around Karang City with the aim of Bakauheni, South Lampung; Then from the arrest of the defendant, evidence was found in the form of 1 black plastic bag wrapped in white plastic containing + 5 kg of ampo potassium chloride powder/powder, 50 wicks/KIP/Detonator, the remaining

money for the purchase was Rp. 360,000,- and 1 unit of black Nokia branded mobile phone used by the defendant to communicate with Br. ACO LIST and the buyers of explosives, namely Witness Hermawan Bin Suroso and Br. RIRIN Whereas later from the arrest of the defendant, information was obtained that the witnesses who ordered explosives from the defendant were Witness Hermawan Bin Suroso and Br. RIRIN Whereas Witness Hermawan Bin Suroso obtained evidence in the form of 1 unit of OPPO A9 brand cellphone belonging to the Defendant which was used to communicate with witness Heri Amboman Bin Ambo Upe That the defendant in carrying out his actions tried to hand over, control, carry, have supplies to him or have in his possession any explosive material does not have a valid permit from the competent authority and has nothing to do with the development of science and the defendant's daily work; - Regarding the witness testimony, the Defendant gave an opinion of no objection.

- c. Witness Hermawan Bin Suroso, under the promise, basically explained as follows:

On Wednesday 15 July 2020 at approximately 15.00 WIB, the witness while at home located in Minang Gading Village, Bakauheni Village, South Lampung Regency called the defendant with the intention of ordering explosives. The witness ordered explosives from the defendant because previously the witness had run out of explosives to go to sea. Then when calling the defendant at that time the witness said with the sentence "where?" and the defendant answered "long, want to go shopping", then the witness said "order 6 kilos, match 50 That then the defendant contacted the witness again by telephone and the defendant said "there is only 5 kilos of Her stuff, make RIRIN 2 kilos for you 3 kilos" and answered by the witness "yes, it's okay, 3 kilograms and 50 and fifty hoses/wicks" and then the witness immediately sent money to the defendant by transfer of Rp. 1.200.000,- Whereas on Wednesday, July 15, 2020 at approximately 19.00 WIB, members of the Ditpolairud Polda Lampung arrested the defendant while the defendant was walking around Jalan Teluk Bone, Karang Kec. Teluk Betung Timur, Bandar Lampung City and found evidence in the form of 1 black plastic bag wrapped in white plastic containing + 5 kg of ampo potassium chloride powder/powder, 50 wicks/KIP/Detonator, the remaining money for the purchase of Rp. RIRIN which is located in Bakauheni, South Lampung. Furthermore, members of the Lampung Regional Police Ditpolairud continued their journey for development to Bakauheni, South Lampung and on Thursday, July 16, 2020, at around 10.00 WIB, the witness at home was successfully arrested

at Minang Gading Village Bakauheni Kab. South Lampung and obtained evidence in the form of 1 Whereas the Defendant and the following witnesses along with the evidence found were secured and brought to the office of the Ditpolair Polda Lampung; - Whereas the witness in carrying out his act of trying to obtain or having in his possession an explosive material did not have a valid permit from the competent authority and had nothing to do with the development of science and the witness's daily work; - Regarding witness testimony, the Defendant gave an opinion of no objection..

2. Letter

That the Public Prosecutor submitted documentary evidence in the form of a Criminal Laboratory Examination Report dated August 3, 2020 issued by the Forensic Laboratory of the South Sumatra Police and signed by Edhi Suryanto, S.Si, Apt, MM, MT, R. Arie Hartawan ST, Eka Yunita, ST, Deri Juriantara, ST as an examiner at the Forensic Laboratory of the South Sumatra Police, the following conclusions were obtained :

- a. Evidence as mentioned in Chapter I point 1 above, is a white lump containing low explosive explosives, namely a mixture of Potassium (P) and Chlorate (CLO3).
- b. The evidence as mentioned in Chapter I point 2 above is an explosive wick which contains a mixture of Low Explosive and High Explosive explosives with explosive compounds, namely a mixture of Potassium (K), Chlorate (CLO3) and TNT. Whereas the Public Prosecutor submitted evidence in the form of 1 (one) black plastic bag wrapped in white plastic containing + 5 (five) kg of ampo potassium chloride powder/powder and 50 (fifty) wicks/KIP/Detonator, 3 samples were taken. (three) tablespoons of ampo potassium chloride powder and 3 (three) wicks/KIP/Detonator, the remaining money for the purchase is Rp. 360,000,- (three hundred and sixty thousand rupiah) 1 (one) unit of black Nokia brand mobile phone and 1 (one) unit of OPPO brand A9 type HP, the evidence has been legally confiscated according to law and the evidence is witnesses- the witness and the defendant confirmed it and then the Panel of Judges assessed that the evidence could be used as evidence to prove this case.

3. Defendant's Statement

That the Defendant at trial has given information which is essentially as follows :

- a. That it started on Tuesday, July 14, 2020 at around 08.00 WIB when Br. RIRIN came to the Defendant's house which was located in Muara Pulu Pantai Village RT 003 RW 002 Kel. Bakauheni District, Bakauheni Kab. South Lampung;

- b. Whereas later when the Defendant met with Br. The RIRIN at that time, Br. RIRIN said, "Brother, please help I want to go shopping" and the Defendant answered "how many kilos" and then Br. RIRIN answered "2 kilos" and the Defendant said "yes" then Br. RIRIN said again "how much?" and the Defendant's witness answered "the material costs 1 million 200" and then Br. RIRIN gave Rp. 1,200,000, - and give money of Rp. 100.000,- to the Defendant as wages for buying explosives and then Br. RIRIN came home; - That later in the day at around 12.30 WIB with money from Br. In the RIRIN, the Defendant departed from the Defendant's house using a travel car and got off at Panjang City Bandar Lampung and spent 1 day at Panjang Bandar Lampung.;
- c. That the next day on Wednesday, July 15, 2020 at approximately 15.00 WIB, the Defendant was called by witness Hermawan Bin Suroso with the intention of ordering explosives, because witness Hermawan Bin Suroso had previously ordered explosives from the defendant to go to sea. Then when he called the witness, Hermawan Bin Suroso said with the sentence "where?" and the defendant answered "long, want to go shopping", then witness Hermawan Bin Suroso said "order 6 kilos, lighter 50" and the defendant replied "yes I'll call ACO first";
- d. That then at around 15.30 WIB the defendant contacted Br. ACO LIST via cellphone with the number 081367044172 and the defendant at that time said "anyone wants to go shopping, boss, is there any?" and answered by Mr. ACO LIST "there are, how many kilos?" the defendant answered "8 kilos" and answered by Br. ACO LIST "There are no 8 kilos, there are 5 kilos" then the defendant said again "Can't you find another one, can you?" and answered by Mr. ACO LIST "it can't, it doesn't exist, it's empty" and the defendant answered "yes, I ordered 5 kilos and 50 lighters" then answered by Mr. ACO LIST "yes";
- e. That later after the defendant contacted Br. The ACO LIST then the defendant again contacted witness Hermawan Bin Suroso by telephone and the defendant said "there is only 5 kilos of Her stuff, make RIRIN 2 kilos for you 3 kilos" and the witness Hermawan Bin Suroso answered "yes, it's okay with the following 3 kilograms 50 and fifty axes" and furthermore, witness Hermawan Bin Suroso immediately sent money to the defendant through a transfer of Rp. 1,200,000,- ;
- f. That then after the defendant received the money transfer from the witness Hermawan Bin Suroso, still on Wednesday, July 15, 2020 at around 18.30 WIB the defendant went to the house of Mr. ACO LIST using a motorcycle taxi then the defendant got off and waited in front of the Islamic Boarding School in

Cungkeng Village, Karang City Village, Kec. Teluk Betung Timur Bandar Lampung City and at that time the defendant contacted Br. ACO LIST by telephone and the defendant explained the whereabouts of the defendant at that time, Br. ACO LIST said "yes, wait there, my child will accompany me, give me Rp. 200,000,- ";

- g. That then at around 18.45 WIB a man aged + 16 years came and then gave the explosives according to the defendant's order which was wrapped in black plastic covered with white plastic and then the defendant gave money to the man in the amount of Rp. 1.650.000,- as money for the purchase of explosives and Rp. 200,000,- as travel money for the person who delivered the explosives;
- h. That on Wednesday, July 15, 2020, at around 19.00 WIB, members of the Ditpolairud Polda Lampung arrested the defendant while the defendant was walking around Teluk Bone Street, Karang District. Teluk Betung Timur, Bandar Lampung City and found evidence in the form of 1 black plastic bag wrapped in white plastic containing + 5 kg of ampo potassium chloride powder/powder, 50 wicks/KIP/Detonator, the remaining money for the purchase of Rp. 360,000,- and 1 unit of black Nokia branded mobile phone used by the defendant to communicate with Br. ACO LIST and buyers of explosives, namely witnesses Hermawan Bin Suroso and Sdr. RIRIN;
- i. Whereas later from the arrest of the defendant, information was obtained that the witnesses Hermawan Bin Suroso and Br. RIRIN which is located in Bakauheni, South Lampung. Furthermore, members of the Ditpolairud Polda Lampung continued their journey for development to Bakauheni, South Lampung and on Thursday, July 16, 2020, at around 10.00 WIB, the witness Hermawan Bin Suroso was arrested at the address at Minang Gading Village Bakauheni Kab. South Lampung and evidence was obtained in the form of 1 unit of OPPO A9 brand cellphone belonging to witness Hermawan Bin Suroso which was used to communicate with the defendant when ordering explosives..;
- j. Whereas subsequently the Defendant and witness Hermawan Bin Suroso along with the evidence found were secured and brought to the office of the Ditpolair Polda Lampung; - Whereas the defendant in carrying out his actions tried to surrender, control, carry, have stock with him or have in his possession an explosive material without a valid permit from the competent authority and has nothing to do with the development of science and the defendant's daily work.

Based on the description above, it can be analyzed that the Public Prosecutor has proven the crime of possessing explosive bombs without rights and without a permit, namely:

1. Witness testimony: Witness testimony Nurkholik Bin Sueb, Alexandre Parulian Simorangkir and Hermawan Bin Suroso.
2. Letter: letter evidence in the form of the Minutes of Criminalistic Laboratory Examination dated August 3, 2020 issued by the Forensic Laboratory of the South Sumatra Police as an examiner at the South Sumatra Police Forensic Laboratory, it was concluded that it was true that the evidence as mentioned in Chapter I point 1 above, is a white lump that contains elements of low explosive explosives, namely a mixture of Potassium and Chlorate and the evidence as mentioned in Chapter I point 2 above is an explosive axis which contains a mixture of Low Explosive and High Explosive explosives with explosive compounds, namely a mixture of Potassium, Chlorate and TNT.
3. The Defendant's Statement: That the Defendant admitted that he tried to hand over, control, carry, have stock with him or have in his possession any explosives without a valid permit from the competent authorities and has nothing to do with the development of science and the defendant's daily work. and the Defendant did not object to the previous testimony of the Witness.

For cases which are considered complete at the time of proving the Defendant is proven guilty of surrendering, controlling, carrying, having stock with him or having in his possession any explosives, there is no valid permit in violation of the Emergency Law number 12 of 1951.

C. Proof of the Crime of Possession of Unauthorized and Unlicensed Bomb Explosives

In this regard, the Tribunal will review whether it is true that the Single Indictment has been legally and convincingly proven by the Public Prosecutor or not; According to Sudarto, the judge gave his decision on matters as Following:

- a. The decision regarding the incident, namely whether the defendant has committed the act he was accused of.
- b. The decision regarding the punishment, i.e. whether the act was committed the defendant is a crime and is the defendant guilty and can be punished.
- c. Decision regarding the crime, if the defendant indeed can be punished. (Soedarto. 1990.)

The judge's decision is the result of deliberation starting from a indictment with everything that is proven in the examination at trial Court. Judging from the judge's decision, what was indicted in the indictment was proven, it may also judge that what was indicted was indeed proven, but what was indicted was not a criminal act, but included the scope of a civil case or included the scope of a criminal complaint (*klacht delict*).). (Yahya Harahap. 2000.)

Whereas the Defendant was brought to trial by the Public Prosecutor, he was indicted based on the indictment as follows. Defendant Heri Amboman Bin Ambo Upe Late on Wednesday, July 15, 2020 at around 19.00 WIB or at least at another time in July 2020 at Jalan Teluk Bone, Karang City, Kec. Teluk Betung Bandar Lampung City The defendant did the following :

- a. RIRIN came to the Defendant's house whose address was at Kampung Muara Pilu Pantai RT 003 RW 002 Kel. South Lampung. Then when the Defendant met with Br. The RIRIN at that time, Br. RIRIN said, "Brother, I need help, I want to go shopping" and the Defendant answered "how many kilos" and then Br. RIRIN answered "2 kilos" and the Defendant said "yes" then Br. RIRIN said again "how much?" and the Defendant answered "the material costs 1 million 200" and then Br. RIRIN gave Rp. 100,000,- to the Defendant as wages for buying explosives and then Br. RIRIN went home... Then at noon around 12.30 WIB with money from Br. In the RIRIN, the Defendant departed from the Defendant's house using a travel car and got off at Panjang City Bandar Lampung and spent 1 (one) day at Panjang Bandar Lampung.;
- b. That the next day, Wednesday, July 15, 2020, at approximately 15.00 WIB, the Defendant was contacted by witness Hermawan Bin Suroso via cellphone, at which time witness Hermawan Bin Suroso also ordered explosives from the Defendant. Witness Hermawan Bin Suroso said to the Defendant with the sentence "where?" and answered by the Defendant "long, want to go shopping", then witness Hermawan Bin Suroso said "order 6 (six) kilos, lighter (Kip/detonator wick) 50 (fifty)" and the Defendant answered "yes, I'll call ACO first";
- c. That furthermore, on Wednesday, July 15, 2020 at approximately 15.30 WIB, the Defendant contacted Br. ACO LIST via cellphone with number 081367044172 and the Defendant at that time said "Anyone wants to shop, boss, bro?" and answered by Br. ACO LIST "There are no 8 kilos, there are 5 kilos" then the Defendant said again "Can't find another one, can you?" and was answered by Mr. ACO LIST "it can't, it doesn't exist, it's empty again" and the Defendant answered "yes, I ordered 5 (five) kilos and 50 (fifty) matches (kip/detonator wick)" then answered by Br. ACO LIST "yes". After the Defendant contacted Mr. The ACO LIST then the Defendant

- again contacted witness Hermawan Bin Suroso by telephone and the Defendant said "there is only 5 (five) kilos of her item, for Mr. RIRIN 2 (two) kilos for you 3 (three) kilos" and was answered by witness Hermawan Bin Suroso "it's okay, 3 (three) kilograms along with 50 (five) fifty hoses/wicks" and then witness HERMAWAN Bin SUROSO immediately sent money to the Defendant by transfer of Rp. 1.200.000,- (one million two hundred thousand rupiah);
- d. That then after the Defendant received the money transfer from witness Hermawan Bin Suroso, it was still on Wednesday, July 15, 2020 at around 18.30 WIB, the Defendant went to the house of Mr. ACO LIST by using a motorcycle taxi and then the Defendant got off and waited in front of the Islamic boarding school in Cungkeng Village, Karang City Village, Kec. Teluk Betung, Bandar Lampung City, then at around 18.45 WIB, a man aged + 16 years came and then gave explosives according to the defendant's order which was wrapped in black plastic covered with white plastic and then the Defendant gave money to the man in the amount of Rp. 1.650.000,- as money for the purchase of explosives and Rp. 360,000,- and 1 unit of black Nokia branded mobile phone used by the Defendant to communicate with the purchaser of explosives. Then from the arrest of the Defendant, information was obtained that those who ordered explosives from the Defendant were witnesses Hermawan Bin Suroso and Br. RIRIN which is in Bakauheni, South Lampung.
- e. Whereas furthermore, the evidence in the form of 1 black plastic bag wrapped in white plastic containing + 5 kg of ampo potassium chloride powder/powder and 50 ampoules/KIP/Detonator samples were taken as many as 3 tablespoons of ampo potassium chloride powder/powder and 3 fruit axis/KIP/Detonator for laboratory examination at the Forensic Laboratory of the South Sumatra Police. The Forensic Laboratory of the South Sumatra Police concluded as follows:
1. The evidence as mentioned in Chapter I point 1 above, is a white lump containing low explosive explosive elements, namely a mixture of Potassium (P) and Chlorate (CLO3).
 2. Evidence as referred to in Chapter I point 2 above is an explosive wick which contains a mixture of Low Explosive and High Explosive explosives with explosive compounds, namely a mixture of Potassium (K), Chlorate (CLO3) and TNT.
- f. Whereas furthermore, the evidence in the form of 1 black plastic bag wrapped in white plastic containing + 5 kg of ampo potassium chloride powder/powder and 50 ampoules/KIP/Detonator samples were taken as many as 3 tablespoons of ampo

potassium chloride powder/powder and 3 axes/KIP/Detonator for laboratory examination at the South Sumatra Police Forensic Laboratory.

That the Defendant has been indicted by the Public Prosecutor on a single charge as regulated in Article 1 paragraph (1) of the Emergency Law of the Republic of Indonesia Number 12 of 1951, whose elements are as follows: 1. Whoever; 2. Without the right to import into Indonesia makes, receives, tries to obtain, surrenders or tries to surrender, controls, carries, has stock with him or has in his possession, keeps, transports, hides, uses, or removes from Indonesia any firearm, ammunition or anything explosives;

Considering that with respect to these elements, the Panel of Judges considers the following :

Ad. 1. Whose Element:

1. Considering that what is meant by "Whoever" is referring to every person as a legal subject, a supporter of rights and obligations, in this case has been submitted to the trial of the Tanjung Karang District Court Defendant Heri Amboman Bin Ambo Upe Late, whose identity is as stated on the initial part of this decision, is a legal subject who meets the qualifications as a person who can be accounted for for his actions, where in the trial there was no fault in persona found at all and against the defendant there was no excuse for forgiveness, justification or other reasons based on a law that can eliminate the nature of criminal liability so that it can stop criminal charges against the defendant;
2. Considering that based on these considerations, the Panel of Judges assesses the element of whoever has been proven and fulfilled, however, due to the element of "whoever" the emphasis is on the existence of a legal subject, regarding the substance of whether or not the defendant has committed the act he is accused of, will depend on consideration of the subsequent material elements of this indictment.

Ad.2. Elements without right to enter into Indonesia, make, receive, try to obtain, surrender or try to surrender, control, carry, have stock with him or have in his possession, store, transport, hide, use or remove from Indonesia a firearm, ammunition or explosives :

1. Considering that in this article there is an alternative formulation of elements because there are several words "or", and the punctuation mark "comma" means that one of the element formulations is fulfilled, the elements in this article must

be declared fulfilled; Considering that what is meant by "without rights" is an act that is carried out without permission from the party authorized to give permission;

2. Considering, that based on the legal facts revealed in court, it was true that on Wednesday, July 15, 2020 at approximately 19.00 WIB, at Jalan Teluk Bone, Karang City, Kec. Teluk Betung Timur, Bandar Lampung City, a member of the Ditpolairud Polda Lampung has arrested the defendant because based on information from the public that there will be explosives being sent from around Karang City to Bakauheni, South Lampung;
3. Considering that it is true that from the arrest of the defendant, evidence was found in the form of 1 (one) black plastic bag wrapped in white plastic containing + 5 (five) kg of ampo potassium chloride powder/powder, 50 (fifty) wicks/KIP /Detonator, the remaining money for the purchase is Rp. 360,000,- (three hundred and sixty thousand rupiah) and 1 (one) black Nokia brand mobile phone used by the defendant to communicate with Br. ACO LIST (DPO) and the buyer of the explosives, Witness Hermawan Bin Suroso (defendant in separate file) and Sdr. RIRIN (DPO);
4. Considering that it is true that based on the Minutes of Criminal Laboratory Examination dated August 3, 2020 issued by the Forensic Laboratory of the South Sumatra Police and signed by Edhi Suryanto, S.Si, Apt, MM, MT, R. Arie Hartawan ST, Eka Yunita, ST, Deri Juriantara, ST as the examiner at the Forensic Laboratory of the South Sumatra Police, the following conclusions were obtained: 1. The evidence as mentioned in Chapter I point 1 above, is a white lump containing low explosive explosives, namely a mixture of Potassium (P) and Chlorate (CLO3).). 2. The evidence as referred to in Chapter I point 2 above is an explosive wick which contains a mixture of Low Explosive and High Explosive explosives with explosive compounds, namely a mixture of Potassium (K), Chlorate (CLO3) and TNT.
5. Considering that it is true that the defendant in carrying out his deed tried to surrender, control, carry, have stock with him or have in his possession an explosive material without a valid permit from the competent authority and has nothing to do with the development of science and the defendant's daily work day.

PAF. Lamintang said that according to the doctrine there are 3 (three) forms of intentionality, namely :

1. Deliberation as intent (*opzet als oogmerk*) In intentionality as an intention, the perpetrator wants the consequences arising from the actions he has committed.
2. Deliberation as certainty (*opzet bijzekerheidsbewuszijn*). In intentionality as a certainty, the perpetrator is fully aware of the emergence of other consequences than the desired result.
3. And intentionality as a possibility (*opzet bijmogelijkheids bewuszijn*) (P.A.F Lamintang. 1984. In intentional as a possibility, the perpetrator is aware of the possibility of a result other than the desired effect.

According to Jhony Butar Butar, S.H., M.H. said that it was true that the way the defendant obtained the explosives was on the day of and based on the facts in the trial this element has been proven and fulfilled because the second element of this article has been fulfilled, it can be concluded that if the Defendant is the perpetrator of the crime he is accused of so that Whoever has automatically fulfilled the elements and therefore all elements of Article 1 paragraph (1) of the Emergency Law of the Republic of Indonesia Number 12 of 1951 have been fulfilled, then the Defendant must be declared to have been legally and convincingly proven to have committed a criminal act as charged in single charge.

Whereas based on the considerations above, the Panel is of the opinion that it is appropriate and fair that the sentence imposed on the Defendant is as determined in this decision, namely :

1. To declare that the Defendant Heri Amboman Bin Ambo Upe Alm above, was legally and convincingly proven guilty of committing a criminal act "Without the right to try to hand over, control, carry, have stock with him or have in his possession any explosives";
2. Sentencing the Defendant with imprisonment for 1 (one) year and 6 (six) months;
3. Determine the period of arrest and detention that has been served by the Defendant to be deducted entirely from the sentence imposed;
4. Determine that the Defendant remains in custody;
5. Determine evidence in the form of 1 (one) black plastic bag wrapped in white plastic containing + 5 (five) kg of ampo potassium chloride powder/powder and 50 (fifty) wicks/KIP/Detonator, 3 samples are taken. three) tablespoons of ampo potassium chloride powder/powder and 3 (three) wicks/KIP/Detonator, 1 (one) black Nokia brand cell phone and 1 (one) OPPO A9 brand cell phone, were confiscated for destruction, while the remaining money from the purchase amounting to Rp. 360,000.00 (three hundred and sixty thousand rupiahs), shall be

confiscated for the state;

6. Encumber the Defendant to pay court fees in the amount of Rp. 2,000.00 (two thousand rupiah) ;

Based on the description above, it can be analyzed that the legal consequences of the criminal act of possessing explosive bombs without rights and without permission in (Decision study 1107/Pid.Sus/2020/Pn.Tjk) The defendant was proven to have violated the Emergency Law No. 12 of 1951 Article 1 paragraph (1) and sentenced to imprisonment for 1 (one) year and 6 (six) months, stipulating evidence in the form of 1 (one) black plastic bag wrapped in white plastic containing + 5 (five) kg of powder/ampo powder Potassium chloride and 50 (fifty) wicks/KIP/Detonator samples were taken as much as 3 (three) tablespoons of ampo potassium chloride powder/powder and 3 (three) wicks/KIP/Detonator, 1 (one) unit cell phone brand The black Nokia and 1 (one) unit of OPPO brand type A9 cellphone, were confiscated for destruction, while the remaining money for the purchase of Rp. 360,000.00 (three hundred and sixty thousand rupiahs) was confiscated for the state and charged the Defendant to pay court fees in the amount of Rp. 2 .000,00 (two thousand rupiah).

4 CONCLUSION

Based on the results of research and discussion of the thesis that the author adopted with the title Legal Consequences of Criminals Possessing and Controlling Bomb Explosives Without Rights and Without Permission (Study of Decision 1107/Pid.Sus/2020/Pn.Tjk) the following conclusions can be drawn :

1. The investigation process in the criminal act of possessing explosives without rights and without a permit (Decision Study 1107/Pid.sus/2020/Pn.Tjk) is a report or complaint, then the Police conduct an investigation to seek and find an event that is suspected to be a criminal acts in order to determine whether or not an investigation can be carried out according to the method regulated by law. After the discovery of a criminal act, the Police conduct an investigation to search for and collect evidence that with that evidence makes clear about the crime that occurred and to find the suspect. And after determining the suspect, the police arrested and detained the suspect. In cases where the evidence is considered complete, this will not be a problem when the case will be transferred to the prosecutor's office.
2. Proof of the criminal act of possessing explosive bombs without rights and without permission in (Decision study 1107/Pid.Sus/2020/Pn.Tjk), namely: 1.

Witness Statements: Witness statements Nurkholik Bin Sueb, Alexandre Parulian Simorangkir and Hermawan Bin Suroso. 2. Letter: letter evidence in the form of the Minutes of Criminalistic Laboratory Examination dated August 3, 2020 issued by the Forensic Laboratory of the South Sumatra Police and signed by Edhi Suryanto, S.Si, Apt, MM, MT, R. Arie Hartawan ST, Eka Yunita, ST, Deri Juriantara, ST as the examiner at the Forensic Laboratory of the South Sumatra Police concluded that it was true that the evidence as mentioned in Chapter I point 1 above, was a white lump containing low explosive explosives, namely a mixture of Potassium (P) and Chlorate (CLO₃) and The evidence as mentioned in Chapter I point 2 above is an explosive wick which contains a mixture of Low Explosive and High Explosive explosives with explosive compounds, namely a mixture of Potassium (K), Chlorate (CLO₃) and TNT. 3. The Defendant's Statement: That the Defendant admitted that he tried to hand over, control, carry, have stock with him or have in his possession any explosives without a valid permit from the competent authorities and has nothing to do with the development of science and the defendant's daily work. and the Defendant did not object to the previous testimony of the Witness.

3. Legal Consequences of the Crime of Possession of Explosives Bombs Without Rights and Without Permit (Decision study 1107/Pid.Sus/2020/Pn.Tjk) The defendant was proven to have violated the Emergency Law Number 12 of 1951 and was sentenced to imprisonment for 1 (one) year.) Years and 6 (six) months, stipulates evidence in the form of 1 (one) black plastic bag wrapped in white plastic containing + 5 (five) kg of ampo potassium chloride powder/powder and 50 (fifty) wicks/KIP/ Samples were taken of 3 (three) tablespoons of ampo potassium chloride powder/powder and 3 (three) wicks/KIP/Detonator, 1 (one) unit of black Nokia brand mobile phone and 1 (one) unit OPPO brand type HP. A9, confiscated for destruction, while the remaining money from the purchase amounting to Rp. 360,000.00 (three hundred and sixty thousand rupiahs) was confiscated for the state and charged the Defendant to pay court fees in the amount of Rp. 2,000.00 (two thousand rupiahs)

5 ACKNOWLEDGMENTS

None

6 DECLARATION OF CONFLICTING INTERESTS

Authors declare that there is no conflicting interest in this research and publication.

7 FUNDING

None

8 REFERENCES

- Adami C. (thn). Lesson in Criminal Law Part I, p.81.
- Ahmad Ali. (2009). *Revealing Legal Theory and Judicial Theory (judicial prudence) including the interpretation of the law (legisprudence)*. Jakarta: Kencana Perdana Media Group.
- Ahmad Rifai. (2010). *Legal Inventions*. Jakarta: Sinar Graphic.
- Ahmad, A. (2012). *Revealing the Veil of the Law*. Jakarta: Ghalia Indonesia.
- Ahmad, Z,F. (2011). Thinking Philosophy In Judge's Decision, This article was published in *Varia Judiciary* No. 304, p.3.
- Andi Hamza. (1982). *Offenses Spread Outside the Criminal Code with Comments*. Jakarta: Pradnya Paramita.
- Andi Hamza. (1985). *Introduction to the Indonesian Criminal Procedure Code*. Jakarta: Ghana Indonesia.
- Andi Sofyan. *Thn Criminal Procedure Code An Introduction*, Pg.245.
- Andi Sofyan.(2013). *An Introduction to the Criminal Procedure Code*. Yogyakarta: Rangkang Education.
- Bambang Poernomo. (1993). *Principles of Criminal Law*. Jakarta: Ghalia Indonesia.
- Barda Nawawi Arief. (1996). *Anthology of Criminal Law Policy*. Bandung: Image of Aditya Bhakti
- Barda Nawawi Arief. (2013). *Capita Selecta Criminal Law*. Bandung: Citra Aditya.
- Clarence J. Dias. Research on Legal Service And Poverty: its Relevance to the Design of Legal Service Program in Developing Countries, *Wash. U.L. Q* 147 (1975). P. 150.
- Constitution of the Republic of Indonesia Result of Amendment 1945.
- D Simons. In Darwin Print. (1998). *Criminal Procedure Law in Practice*. root: *Djambatan D. Soedjono, Preliminary Examination according to K.U.H.A.P*. Bandung: Pen.alumni.
- Ebta Setiawan, "meaning or meaning of proof" in [http:// KBBI.web.id/arti](http://KBBI.web.id/arti) or meaning of proof. accessed on March 10, 2017.

- Emergency Law of the Republic of Indonesia Number 12 of 1951 concerning Firearms.
- Government Regulation Number 92 of 2015 concerning the Second Amendment to Government Regulation Number 58 of 2010 Jo. Government Regulation Number 27 of 1983 concerning Guidelines for the Implementation of the Criminal Procedure Code (KUHAP).
- Jan Michiel Otto. (2012). *Real Legal Certainty in Developing Countries*, in Jan Michiel Otto (et.all, *Socio-legal studies: Series of Elements of Building a State of Law*). Bali: Publisher of Pustaka Larasan
- Law 2 of 2002 concerning the Indonesian National Police
- Law No. 1 of 1946 Jo. Law Number 73 of 1958 concerning the Enforcement of the Criminal Code (KUHP).
- Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia.
- Law Number 39 of 1999 concerning Human Rights.
- Law Number 48 of 2009 concerning Amendments to Law Number 4 of 2004 concerning the Judicial Powers of the Republic of Indonesia.
- Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP).
- Marlina. (2011). *Penitensier Law*. Bandung: PT Refika Aditama.
- Moeljatno. (1993). *Principles of Criminal Law*. Jakarta: Rineka Cipta
- Muhammad Erwin. (2012). *Philosophy of Law*. Jakarta: Raja Grafindo.
- Munir Fuady. (2006). *Legal Theory of Evidence: Criminal and Civil*. Bandung: Citra Aditya.
- Nafi' Mubarak. (2017). *Criminal Law Knowledge Supplement*. Surabaya: Faculty of Sharia and Law UIN Sunan Ampel
- P.A.F Lamintang. (1984). *Fundamentals of Indonesian Criminal Law*. Bnadung: Sinar Baru,
- P.A.F. Lamintang, & C. Djisman Samosir. (1981). *Special Offenses*. Bnadung: Tarsito
- Presidential Decree No. 125/1999 on Explosives
- Professor Dr. Acmad Ali, S.H., M.H.. Revealing legal theory and judicial prudence including the interpretation of the law (legisprudence) is one of the eleven volumes of the book (Professor of Law, Faculty of Law, Hasanudin University).
- Rahmanuddin Tomalili. (2012). *Criminal Law*. Yogyakarta: CV. Budi Utama.

- Raida L Tobing, et al. (2011). (Results of Research), Effectiveness of Money Laundering Law, National Legal Development Agency, Ministry of Law and Human Rights, Jakarta, Pg.11.
- Regulation of the Head of the National Police of the Republic of Indonesia Number 6 of 2019 concerning Criminal Investigations.
- Regulation of the Minister of Defense Number 36 of 2012 concerning Guidelines and Procedures for Licensing, Guidance, Development, Supervision, and Control of the Explosives Industry;
- Rudy T. Erwin & J. T. Prasetyo. (1990). *Collection of Criminal Law Laws and Regulations Volume 1*. Jakarta: New Script.
- Saifudien. (2009). Criminal Liability. <http://saifudiendjsh.blogspot.com/2009/08/criminal-liability.html>, p. 1, visited on June 4, 2012.
- Salim, H.S & Erlis Septiana Nurbani. (2013). *Application of Legal Theory in Thesis and Dissertation*. Jakarta: Rajawali Press
- Sasongko & Lili Rosita Day. (2003). *Law of Evidence in Criminal Cases for Students and Practitioners*. Bandung: Mandar Maju
- Septi Wahyu Sandiyoga. (2015). "Effectiveness of Makassar Mayor Regulation Number 64 Year 2011 concerning Free Parking Areas in Five Shoulder Sections of Makassar City Road", Hasanuddin University Makassar Thesis, p. 11.
- Soedarto. (1990). *Capita Selecta Criminal Law*. Bandung, Alumni.
- Soerjono Soekanto. (1985). *The Effectiveness of Law and the Role of Witnesses*. Bnadung: Youth Works.
- Sudikno Mertokusumo. (2003). *Knowing the Law is an Introduction*. Yogyakarta: Liberty.
- Tolib Effendi. (2014). *Basic Laws of Criminal Procedure (Developments and Reforms in Indonesia)*. Malang: Setara Press
- Tri Andrisman. (2009). *Principles and Basic Rules of Indonesian Criminal Law*. University of Lampung: Bandar Lampung..
- Van Bemmelen. (1984). *Criminal Law 1*. Bandung: Copyright Development.
- Wirjono Prodjodokoro. (2003). *Certain Crimes in Indonesia*. Bandung: Refika Aditama
- Yahya Harahap. (2000). *Discussion of Problems and Implementation of the Criminal Procedure Code*. Jakarta: Sinar Graphic.
- .

*It is not wisdom but authority
that makes a law*

Thomas Hobbes