

Juridical Review of the Responsibility of the Recipient of Entrusted Timber Forest Products (Study of Decision Number 50/Pid.B/LH/2021/PN Slw)

Reviera Zahwa Hadisiswoyo
Universitas Muhammadiyah Purwokerto

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ABSTRACT

Illegal logging occurs lot in Indonesia, illegal logging is carried out by person or group of people who cut down forest without permit from government. Illegal logging usually carried out in areas that are prone to desertion and lack of supervision from government. In Indonesia, there are many areas that are rampant with illegal logging. One of them is Tegal Regency area, precisely in the Forest Management Unit (KPH) in Balapulang. An example of case is receipt of entrustment and storing timber forest products originating from KPH Balapulang. This research aims to find out and analyze judge's decision and analyze the existence of Certificate of Legality of Timber Forest Products in decision. The research method uses juridical-normative, focusing on normative law on laws and regulations related to forest destruction. The judge's verdict Number 50/Pid.B/LH/2021/PN Slw in practice is in accordance with Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, this because in verdict, defendant has fulfilled the elements in Article 87 Paragraph (1) letter c of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. The existence SKSHHK is important in Decision Number 50/Pid.B/LH/2021/PN Slw, because Certificate of Legality of Timber Forest Products is document that must be owned by every person who transports forest timber. This stated in Article 16 of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. The government is expected to conduct socialization about timportance of protecting forests to community.

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Corresponding Author:

Reviera Zahwa Hadisiswoyo

Faculty of Law, Universitas Muhammadiyah Purwokerto

Jl. KH. Ahmad Dahlan, Kembaran, Banyumas, Jawa Tengah 53182, Indonesia

I. INTRODUCTION

Forests are a huge natural resource that is utilized by the surrounding community to meet their daily needs.¹ The total area of forests in Indonesia is 133,300,543.98 ha. This area includes nature reserves, protected forests and production forests.² With the forest, the ecosystem will run well. Humans and animals can coexist, human needs can also be obtained from the forest. The functions of forests are forests as ecosystems, forests as a source of wood production, forests for wildlife habitat, forests as a source of plasmanutfah, forests as a place of

¹Markum, Markum (2019) *Sosiologi Kehutanan Dan Kehutanan Masyarakat*. Buku ajar Sosiologi Kehutanan Dan Kehutanan Masyarakat, 1 (1). Mataram University Press, Mataram. ISBN 978-623-7608-32-5

² Sasono, Herman Budi, et al. *Manajemen Penebangan hutan*. Penerbit Andi, 2022

recreation.³ Therefore, forests need to be protected by law so that they can be used for the best possible purposes. Efforts to deal with forest destruction have long been made, but have not been effective and have not shown optimal results. This is partly due to existing laws and regulations, such as Law No. 41/1999 on Forestry, which does not explicitly regulate criminal acts of forest destruction committed in an organized manner. Therefore, Law No. 18 of 2013 on Prevention and Eradication of Forest Destruction was drafted as a new legal umbrella so that organized forest destruction can be handled effectively and efficiently as well as providing a deterrent effect to the perpetrators.⁴ Considering that there are many people who arbitrarily carry out illegal logging in the forest without a permit from the local government. According to Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction in accordance with the provisions of Article 1 number 4, illegal logging is all activities for the unlawful utilization of timber forest products in an organized manner.⁵ Illegal logging is carried out by a person or group of people who log the forest without permission from the government or without a license. Illegal logging is usually carried out in areas that are prone to desertion and lack of supervision from the government and local communities. Illegal logging is very detrimental to various parties. In addition to harming the government that manages the forest, the State is also harmed by illegal logging. In this case, the State loses up to IDR 45 trillion per year. Every year forest damage in Indonesia due to illegal logging reaches 1.6 million to 2.4 million hectares⁶. In addition to the state, the surrounding communities and animals that live in the area also bear the consequences. In Indonesia itself, there are many areas that are rampant with illegal logging. One of them is the Tegal Regency area, precisely in the Forest Management Unit (KPH) in Balapulang. An example of a case is the receipt and storage of timber forest products originating from the KPH Balapulang. This case originated from a report to Perhutani employees and the Margasari Police team in March 2021 who received information from the surrounding community about a pile of teak wood in the Karangdawa area, Margasari District, Tegal Regency. Then after checking, it turned out that it was true that the teak wood came from the state forest RPH Kaligimber plot 72 A-1 KPH Balapulang. The pile of wood was found in Dakhuri's house. Prior to that, precisely in February 2021, Dakhuri was asked for help by Rohim (DPO) to transport seven (seven) pieces of teak logs in the form of bales originating from the state forest of RPH Kaligimber plot 72 A-1 KPH Balapulang, from in front of the goat pen which is 200 meters from Dakhuri's house, by luring Dakhuri that if the wood is sold, Rohim (DPO) will give money to Dakhuri. After checking, the wood had been painted green, and the wood was found in Dakhuri's house, precisely in the bathroom. Then, the wood was secured and taken to Margasari Police Station. And Dakhuri could not show his papers or documents for 7 (seven) pieces of wood in the form of teak logs and said that the wood was entrusted from Rohim.

From this, we can see that accepting entrustment of timber forest products without a valid forest product certificate is illegal. The requirement for a Certificate of Legality of Timber Forest Products or SKSHHK also makes illegal loggers not want to take too high a risk. SKSHHK is a timber forest product transportation document issued through the Forest Product Administration Information System or SIPUHH. There is a case regarding the recipient of timber forest products without a valid certificate of forest products. (Study of decision Number 50/Pid.B/LH/2021/PN Slw). There are many studies with the same subject matter or topic. One of them is research from Wira Fhadly. The difference between Wira Fhadly's research and the research of the author of this article is that Wira Fhadly's research discusses the requirements for someone who wants to carry out the transportation of timber forest products in Indonesia and how to impose sanctions on the perpetrators of the transportation of timber forest products without a certificate of the legality of timber forest products, while the research of the author of this article discusses the existence of a Certificate of Legality of Timber Forest Products in a decision. Then the next researcher named Malik Al Ghani Nasution, the difference between Malik's research and the research of the author of this article is that Malik's research discusses how to prove the criminal act of controlling, owning forest products that are not equipped with a certificate of legality of forest products in the verdict and also the application of the law in the verdict. Meanwhile, the research of the author of this article discusses the adjustment between the verdict and Law Number 13 of 2013 concerning Prevention and Eradication of Forest Destruction. The purpose of this article is to find out and analyze a decision and the existence of a Certificate of Legality of Timber Forest Products. This is important, considering the many cases of illegal logging that occur in Indonesia. In solving this problem, it will also answer how the form of perpetrator liability that has been contained in Law No. 18 of 2013, and has been determined by the judge. In addition, this research will examine the existence of the Certificate of

³ Ir.Arifin Arief, *Hutan dan Kehutanan*, (Yogyakarta: Penerbit Kanisius,2001), hlm.5

⁴ Putra, Novelio Hendika; Rusdiana, Emmilia. Kajian Yuridis Tindak Pidana Pengangkutan Kayu Hasil Hutan Tanpa Memiliki Surat Keterangan Sah Hasil Hutan(Studi Putusan Kasasi Nomor 3102 K/PID. SUS. LH/2018). *Novum: Jurnal Hukum*, 2021, 21-30

⁵ Julhardi, Idham Mukti. "Penerapan Undang-Undang Nomor 18 Tahun 2013 tentang Pencegahan dan Pemberantasan Perusakan Hutan dalam Kasus Penebangan Liar (Illegal Logging)." *Prosiding Ilmu Hukum* (2021): 671-678

⁶ Hariati and Asrullah Dimas, 'Tinjauan Yuridis Terhadap Tindak Pidana Illegal Logging Yang Terjadi Di Kabupaten Gowa', *Jurnal Ilmu Hukum (Equality Before The Law)*, 1.1 (2021), 1–30.

Legality of Timber Forest Products (SKSHHK), which is quite important in Decision Number 50/Pid.B/LH/2021/PN Slw.

II. RESEARCH PROBLEMS

Based on the mentioned background, there are two problem formulations that must be studied and analyzed related to:

1. Is the judge's decision Number 50/Pid.B/LH/2021/PN Slw in practice in accordance with Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction?
2. Why is the existence of a Certificate of Legality of Timber Forest Products important in Decision Number 50/Pid.B/LH/2021/PN Slw?

III. RESEARCH METHODS

This research uses normative legal research methods because it uses literature studies in the form of legal sources. The problem approach used in this research is the approach of legislation related to forest destruction, the author also uses the judge's decision Number 50/Pid.B/LH/2021/PN Slw by making adjustments to Law No. 18 of 2013 concerning Prevention and Eradication of Forest Destruction. The legal materials used, that is:

1. Primary legal materials, in the form of primary legal materials in the form of laws and regulations. namely Law Number 18 of 2013, Law Number 41 of 1999 concerning Forestry, Law Number 19 of 2004 concerning the Stipulation of Government Regulations in Lieu of Law Number 1 of 2004 concerning Amendments to Law Number 41 of 1999 concerning Forestry.
2. Secondary legal materials, in secondary legal materials consist of books, scientific works, scientific journals, and several writings related to the object being studied.
3. Tertiary legal materials, in tertiary legal materials consist of materials that provide explanations and support for primary legal materials and secondary legal materials, namely in the form of Legal Dictionaries, Big Indonesian Dictionaries, and the internet.

This research is a juridical-normative research, so to obtain supporting data, the data collection method in this research is by studying the literature and analyzing the judge's decision Number 50/Pid.B/LH/2021/PN Slw. To be able to solve the problems in this study and to obtain conclusions by utilizing the data that has been collected, the results in this study are analyzed using qualitative analysis. The qualitative method is used to obtain in-depth data, data that contains meaning.⁷

IV. RESULT AND DISCUSSION

A. The judge's decision Number 50/Pid.B/LH/2021/PN Slw is in accordance with Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction.

Forests need to be preserved so that the forest does not experience damage, one of the actions that result in damage to the forest is illegal logging.⁸ One of the negative impacts of forest destruction is the crime of illegal logging, which is an unpredictable activity on the condition of the forest after logging, because it is outside of the existing planning.⁹ Illegal logging is the unauthorized or unlicensed cutting, transportation and sale of timber from local authorities.¹⁰ Illegal Logging is carried out by a person or group of people who cut down forests without permission from the government or without a license. Illegal logging is usually carried out in areas that are prone to desertion and lack of supervision from the government and local communities. Illegal logging is very detrimental to various parties. For this reason, Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction was made. This law is expected to reduce illegal logging in Indonesia. Illegal logging is very detrimental to many parties, both for the community and the state. Considering the many benefits of forests. Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction has issued a definition of forest destruction. Forest destruction is the process, method, or act of destroying forests through illegal logging activities, the use of forest areas without a permit, or the use of a permit that is contrary to the purpose and objectives of granting a permit in a forest area that has been determined, designated, or is in the process of being determined

⁷ Abdussamad, H. Z., & SIK, M. S. *Metode penelitian kualitatif*. CV. Syakir Media Press.2021

⁸ Wirmayanti, Putu Ayu Irma, Ida Ayu Putu Widiati, and I. Wayan Arthanaya. "Akibat Hukum Penebangan Hutan secara Liar." *Jurnal Preferensi Hukum* 2.1 (2021): 197-201

⁹ Narindrani, F. Upaya Masyarakat dalam Pencegahan dan Pemberantasan Pembalakan Liar di Indonesia. *Jurnal Penelitian Hukum De Jure*, 18.2 (2018) 241

¹⁰ Kurniawan Basuki and others, 'Analisis Faktor Penyebab Dan Strategi Pencegahan Pembalakan Liar (Illegal Logging) Di Kabupaten Tabalong', *EnviroScientiae*, 9 (2013), 27-43.

by the Government. In addition to Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. In Indonesia itself, there are many cases of illegal logging, one of which occurred inegal regency, precisely in KPH Balapulang. In addition to illegal logging, there are other cases such as receiving entrustment and storing timber forest products. This case originated from a report to Perhutani employees and the Margasari Police team in March 2021 who received information from the surrounding community about a pile of teak wood in the Karangdawa area, Margasari District, Tegal Regency. Then after checking, it turned out that it was true that the teak wood came from the state forest RPH Kaligimber plot 72 A-1 KPH Balapulang. The pile of wood was found in Dakhuri's house. Prior to that, precisely in February 2021, Dakhuri was asked for help by Rohim (DPO) to transport seven (seven) pieces of teak logs in the form of bales originating from the state forest of RPH Kaligimber plot 72 A-1 KPH Balapulang, from in front of the goat pen which is 200 meters from Dakhuri's house, by luring Dakhuri that if the wood is sold, Rohim (DPO) will give money to Dakhuri. After checking, the wood had been painted green, and the wood was found in Dakhuri's house, precisely in the bathroom. Then, the wood was secured and taken to Margasari Police Station. And Dakhuri could not show his papers or documents for 7 (seven) pieces of wood in the form of teak logs and told him that the wood was entrusted from Rohim. From here we can see that receiving entrusted timber forest products without a certificate of legality of forest products is illegal. The necessity of a Certificate of Legality of Timber Forest Products or SKSHHK also makes illegal loggers not want to take too high a risk. SKSHHK is a timber forest product transportation document issued through the Forest Product Administration Information System or SIPUHH. In this decision, the defendant named Dakhuri Bin Darji has been proven legally and guilty of committing the crime of "Receiving entrustment, Storing Timber Forest Products originating from Forest Areas that were illegally taken or collected". The judge's verdict Number 50/Pid.B/LH/2021/PN Slw in practice is in accordance with Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, this is because in the verdict, the defendant has fulfilled the elements in Article 87 Paragraph (1) letter c of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. The elements of Article 87 paragraph (1) letter c of Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction include:

1. Individual

In this case, what is meant by Individual is every person who is a legal subject with rights and obligations, who can be held accountable according to the law for the actions he has committed. The Public Prosecutor has presented the defendant Dakhuri Bin Darji before the court, then the defendant testified his name and identity, after being matched it turned out to be the same and in accordance with the name and identity of the Defendant Dakhuri Bin Darji as contained in the Public Prosecutor's indictment and has been confirmed by the witnesses, so in this case there was no error in persona. Based on this, the element of "Individual Person" has been fulfilled.

2. The element of receiving, selling, receiving in exchange, receiving in trust, storing, and or possessing timber forest products originating from forest areas. The elements of the act as contained in the offense must be fulfilled by the element of intent. There are 3 (three) legal theories regarding intent, namely:

- 1) Intentionality as intention (purpose) is the occurrence of a criminal act or certain consequences of the act is a manifestation of the intent and purpose desired by the perpetrator.
 - 2) Intentional as a possibility is intentionally committed by the perpetrator with an awareness of the possibility of the occurrence of an act and the prohibited consequences that may occur if the act is committed.
 - 3) Intentionality as certainty is an act or action of the perpetrator which is known or ascertained by the perpetrator that the act is certain to cause certain consequences.¹¹
- Considering, that before the Panel of Judges considers further whether the Defendant has attached the element of intentionality or not, it will first consider whether the Defendant is proven to have committed the material act as charged by the Public Prosecutor to the Defendant;
 - Considering, that some of the actions mentioned in the above element, namely Receiving, selling, receiving exchange, receiving entrustment, storing, and or possessing timber forest products originating from forest areas are alternative in nature which means that not all of these actions must be carried out by the Defendant, then the actions of the Defendant have been deemed sufficient to fulfill the above element;
 - Considering, that based on Article 1 paragraph 13 of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction (P3H), it is explained that what is meant by forest products are biological, non-biological and derivative objects and services originating from the forest, then what is meant by timber forest products are forest products in the form of round wood, small round wood, processed wood, or seasoned wood originating from forest areas.
 - Considering, that based on the testimony of witnesses, experts, the defendant and connected with the evidence presented before the trial which are mutually consistent with each other, namely the facts revealed in court,

¹¹ Muljatno, *Azas-Azas Hukum Pidana*, Rineka Cipta, 1993. Hal 172-175

namely that the defendant was secured by the Police and Perhutani on Wednesday, March 24, 2021 known at approximately Pk. 12.45 Wib in Ds. Karangdawa Kec. Margasari Kab. Tegal because the Defendant had stored 7 (seven) pieces of teak logs in a green cet inside the Defendant's house with details of size, namely:

- 1 teak log with a length of 210 cm, a width of 22 cm and a thickness of 20 cm.
 - 1 teak log with a length of 200 cm, width of 22 cm and thickness of 20 cm.
 - 1 teak wood block with a length of 200 cm, 24 cm wide and 24 cm thick.
 - 1 teak wood block with a length of 210 cm, width of 20 cm and wood thickness of 20 cm.
 - 1 teak wood block with a length of 200 cm, width of 25 cm and wood thickness of 20 cm.
 - 1 piece of teak wood beam with length 210 cm, width 24 cm and wood thickness 20 cm.
 - 1 piece of teak wood with a length of 200 cm, a width of 35 cm and a thickness of 20 cm.
- Considering, that based on the facts revealed in court when the Defendant was secured by the Police and Perhutani the Defendant could not show a certificate of the legality of the teak wood forest products;
 - Considering, that based on the facts revealed in court the Defendant did not know where the 7 (seven) pieces of teak logs came from, because initially the Defendant was asked for help by the brother ROHIM (DPO) to transport the teak wood and then the Defendant transported the teak wood and stored it in the house (in front of the bathroom) which then on Wednesday, March 24, 2021, Perhutani found the wood and then the logs were secured by Perhutani.
 - Considering, that the actions of the Defendant in transporting forest products in the form of 7 (seven) pieces of teak logs were not equipped with valid certificates in the form of a Certificate of Legality of Forest Products (SKSHH) and without permission from Perum Perhutani KPH Balapulang, Tegal Regency;
 - Considering that based on the aforementioned description, the element of intentionally receiving, selling, accepting exchange, receiving entrustment, storing and/or possessing timber forest products originating from the forest area has been fulfilled.
3. The element of unlawfully taken or collected.
- Considering, that based on the aforementioned description, the element of not being equipped with a valid certificate of forest products has been fulfilled;
 - Considering that all elements of Article 87 paragraph (1) letter c of Law No. 18 of 2013 on Prevention and Eradication of Forest Destruction have been fulfilled, the Defendant must be declared legally and convincingly proven to have committed a criminal offense

Article 87 Paragraph (1) letter c reads "receiving, selling, receiving exchange, receiving entrustment, storing and/or possessing timber forest products originating from forest areas that were illegally taken or collected as referred to in Article 12 letter m". And also punished with imprisonment for a minimum of 8 (eight) months and a maximum of 3 (three) years and a fine of at least Rp.250,000,000.00 (two million fifty million rupiah) and a maximum of Rp. 1,000,000,000,000 (one billion rupiah). Based on the elements contained in Article 87 Paragraph (1) letter c of Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction and by considering other matters, Dakhuri Bin Darji was sentenced to imprisonment for one year, and also sentenced the defendant to pay a fine of Rp. 500,000,00.00 (Five hundred million rupiah) with the provision that if the fine is not paid, it will be replaced by imprisonment in lieu of a fine for 1 month in prison.

B. The existence of SKSHH is an important issue in Decision Number 50/Pid.B/LH/2021/PN Slw.

Illegal logging or also known as illegal logging is an activity of harvesting trees or forests, transporting and selling wood or processed wood products in an unauthorized manner and does not have permission from local authorities. In general, this activity is carried out in forests where it is prohibited to cut or remove trees or wood from the forest. ¹²Logging must be done with proper procedures, in this case logging must be done with permission from the local authority and have a Certificate of Legality of Timber Forest Products. SKSHHK or Certificate of Legality of Timber Forest Products is a timber forest product transportation document issued through the Forest Product Administration Information System or SIPUHH. The use of the term Certificate of Legality of Forest Products as referred to in Law No. 41 of 1999 or Law No. 18 of 2013 is not the name of the document but is a general terminology which consists of several parts or names of documents certifying the legality of forest products. Article 1 of Law No. 18 of 2013 on the Prevention and Eradication of Forest Destruction states: "Certificate of Legality of Forest Products / SKSHH is: files that serve as evidence of the validity of forest products in every action in the organization of timber goods. The SKSHHK document is required

¹² Abdul Muis Yusuf & Mohammad Taufik Makarao, *Hukum Kehutanan Di Indonesia*, Jakarta: Rineka Cipta, 2011

when carrying out transportation activities: Timber from Timber Reserve Protected Forests, Timber Recording Places and important companies; and handled timber.¹³ Documents used in the transportation of forest products included in the Certificate of Legality of Forest Products (SKSHH) as referred to in Article 13 paragraph 1 of the Minister of Forestry Regulation Number: P.8/Menhut-II/2009, that is:

- 1) Certificate of Legality of Logs (SKSKB) is a blank model DKB. 401;
- 2) Invoice for Log Transportation (FA-KB) is a blank model DKA.301;
- 3) Non-Timber Forest Product Transportation Invoice (FA-HHBK) is a blank model DKA.302;
- 4) Invoice for Transportation of Processed Timber (FA-KO) is a blank model DKA.303;
- 5) Auction Transportation Letter (SAL) is a blank model DKB.402;
- 6) Memorandum or invoice from the company that owns the processed timber.¹⁴

The existence of SKSHHK is important in Decision Number 50/Pid.B/LH/2021/PN Slw, this is because the Certificate of Legality of Timber Forest Products is a document that must be owned by every person who transports forest timber. This is stated in Article 16 of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. The article reads "every person who transports forest timber must have a document that is a certificate of legality of forest products in accordance with the provisions of laws and regulations". Then in Article 88 paragraph (1) letters a, b and c reads "carrying out transportation of timber forest products without having documents that are valid certificates of forest products in accordance with the provisions of laws and regulations as referred to in Article 16; falsifying certificates of validity of timber forest products and/or using fake certificates of validity of timber forest products as referred to in Article 14; and/or misusing timber forest product transportation documents issued by authorized officials as referred to in Article 15 shall be punished with imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years and a fine of at least Rp500. 000,000.00 (five hundred million rupiah) and a maximum of Rp2,500,000,000.00 (two billion five hundred million rupiah).

V. CONCLUSION

- A. The judge's verdict Number 50/Pid.B/LH/2021/PN Slw in practice is in accordance with Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, this is because in this decision, the defendant has fulfilled the elements in that Law 87 Paragraph (1) letter c of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. The law reads "receiving, selling, accepting exchange, receiving entrustment, storing and/or possessing timber forest products originating from forest areas that were illegally taken or collected as referred to in law 12 letter m". And also sentenced to a minimum imprisonment of 8 (eight) months and a maximum of 3 (three) years and a fine of at least Rp.250,000,000.00 (two million fifty million rupiah) and a maximum of Rp. 1,000,000,000,000 (one billion rupiah). Taking into account other matters, Dakhuri Bin Darji was sentenced to imprisonment for one year, and also sentenced the defendant to pay a fine of Rp. 500,000,00.00 (Five hundred million rupiah) with the provision that if the fine is not paid, it will be replaced by imprisonment in lieu of a fine for 1 month in prison.
- B. The existence of SKSHHK is important in Decision Number 50/Pid.B/LH/2021/PN Slw, this is because the Certificate of Legality of Timber Forest Products is a document that must be owned by every person who transports forest timber. This is stated in Article 16 of Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction.

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¹³ Mariane, I. (2022). Tinjauan Yuridis Pengangkutan Kayu Tanpa Surat Keterangan Sah Hasil Hutan. *Reformasi Hukum Trisakti*, 4(5), 1081-1092

¹⁴ Pasal 1 ayat 1 Peraturan Menteri Kehutanan Nomor : P.8/Menhut-II/2009

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