

Review of Judges ' Consideration in the Court Decision Regarding the Illegal Sale of Subsidized Fertilizer: Comparison of Indonesian and Uzbekistan

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Submission Track:	ABSTRACT
Received: February 26, 2024	Purpose of the study: This research aims to review the subsidized fertilizer trade from the standpoint of the National Criminal Law, taking into account both the policy considerations that went into its formulation and the background information provided by the judge in two court decisions (Decision No.19/Pid Sus/2022/Fr.Pti. and the decision of MA 105 K/Pid.Sus/2019). It also looks at how the disparities in legal rulings have affected the criminal act of subsidized fertilizer sales between Indonesia and Uzbekistan as per Law No. 93 of 1997 concerning the Criminal Code of the Republic of Uzbekistan Article 177.
Final Revision: May 24, 2024	Methodology: Normative research approach to legislation and case approach. Secondary data were gathered from legal documents.
Available online: June 30, 2024	Results: Since subsidized fertilizer is a good under supervision under the Ministry of Trade of the Republic of Indonesia No. 15/M-DAG/PER/4/2013 on the procurement and distribution of subsidized fertilizer in the agricultural sector, the trade must have a license in accordance with Presidential Regulation of the Republic of Indonesia No. 15/2011 on amendments to Presidential Regulation No. 77 of 2005 on the determination of subsidized fertilizer as a good under supervision. Trading actors who disregard this clause are liable for errors in the form and for not having the proper authorization or
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authority to trade subsidized fertilizer, according to the defendant's Decision No. 19/Pid Sus/2022/PN.Pti. and the Decision of MA 105 K/Pid.Sus/2019. The dangerous nature of the perpetrator's actions also makes them classified as economic crimes because they have the potential to disrupt the national economy. This study aims to compare the legal framework, legal proceedings, and punitive measures of the judge's rulings on the criminal act of illegal fertilizer sales in Uzbekistan and Indonesia. The laws that govern plant cultivation systems in Indonesia are Law Number 12 of 2019, Law No. 8 of 1999 on Consumer Protection, and Criminal Code Article 386, which imposes fines, administrative penalties, and jail time. The legal procedure entails a police or Civil Servant Investigator's investigation, a prosecutor's prosecution, and a trial involving the cross-examination of witnesses and evidence. Illegal fertilizer trade is punishable by law in Uzbekistan under Law No. 93 of 1997 concerning the Criminal Code of the Republic of Uzbekistan, Article 177, and Law No. 221-I of 1996 concerning the Protection of Consumer Rights, with fines, social work, or incarceration as possible forms of punishment. The legal process entails an inquiry conducted by investigative entities, an accusation made by prosecutors, and a trial during which witnesses are questioned and evidence is presented. Only one case—the Navoiyazot case—has made it to the Uzbek court thus far.

Applications of this study: This research can be applied to examine economic crimes committed against the supervision of trade in goods, particularly fertilizers that are subsidized. It is also to compare the conditions of the illicit sale of fertilizers that have been subsidized in Uzbekistan and Indonesia, as well as the rulings made by the courts.

Novelty/Originality of this study: This study is novel in that it examines the trade of fertilizers that are illegally subsidized between two nations.

Keywords: economic crime, subsidized fertilizer, trade.

ABSTRAK

Tujuan: Penelitian ini bertujuan untuk mengkaji perdagangan pupuk bersubsidi dari perspektif hukum pidana nasional dari aspek kebijakan formulasinya serta dari aspek latar belakang keputusan hakim dalam putusan pengadilan (Putusan No. 19/Pid Sus/2022/PN.Pti. dan Putusan MA 105 K/Pid.Sus/2019 serta mengkaji bagaimana perbedaan putusan hukum yang diterapkan terhadap tindak pidana penjualan pupuk bersubsidi antara Indonesia dengan Uzbekistan pada Law No. 93 of 1997 concerning Criminal Code of the Republic of Uzbekistan Pasal 177.

Metodologi: Penelitian normatif pendekatan perundang – undangan dan pendekatan kasus. Data yang dibutuhkan data sekunder yaitu dokumen hukum.

Temuan: Pupuk bersubsidi sebagai barang dalam pengawasan, sehingga perdagangannya harus ada izin sebagaimana ditetapkan Peraturan Presiden Republik Indonesia No 15 /2011 Tentang Perubahan Atas Peraturan Presiden Nomor 77 Tahun 2005 Tentang Penetapan Pupuk Bersubsidi Sebagai Barang Dalam Pengawasan jo Peraturan Menteri Perdagangan RI No 15/M-DAG/PER/4/2013 tentang Pengadaan dan Penyaluran Pupuk Bersubsidi Sektor Pertanian. Pelaku perdagangan yang tidak sesuai dengan ketentuan ini berdasarkan Putusan terdakwa No. 19/Pid Sus/2022/PN.Pti. dan Putusan MA 105 K/Pid.Sus/2019., bahwa terdakwa melakukan kesalahan dalam bentuk tanpa izin atau tanpa kewenangan memperjualbelikan pupuk bersubsidi. Selanjutnya perbuatan pelaku dikategorikan sebagai tindak pidana ekonomi karena sifat berbahaya perbuatan bisa berdampak pada gangguan tingkat perekonomian nasional. Perbandingan putusan hakim terhadap tindak pidana penjualan pupuk ilegal di Indonesia dan Uzbekistan meliputi dasar hukum, prosedur peradilan, dan jenis hukuman. Di Indonesia, dasar hukum terdiri dari Undang-Undang Nomor 12 Tahun 2019 tentang Sistem Budidaya Tanaman, Undang-Undang No. 8 Tahun 1999 tentang Perlindungan Konsumen, dan KUHP Pasal 386, dengan hukuman berupa penjara, denda, dan sanksi administratif. Proses peradilan melibatkan penyidikan oleh kepolisian atau PPNS, penuntutan oleh jaksa, dan persidangan dengan pemeriksaan saksi dan bukti. Di Uzbekistan perdagangan pupuk illegal adalah perbuatan criminal berdasarkan Law No. 93 of 1997 concerning Criminal Code of the Republic of Uzbekistan Pasal 177 dan serta Law No. 221-I of 1996 concerning on Protection of Consumer Rights, dengan hukuman berupa penjara, denda, atau kerja sosial. Proses peradilan melibatkan penyidikan oleh badan investigasi, penuntutan oleh jaksa, dan persidangan dengan presentasi bukti dan pemeriksaan saksi. Sejauh ini baru satu kasus yang masuk kepengadilan Uzbekistan yaitu kasus Navoiyazot.

Kegunaan: Dapat dimanfaatkan untuk kajian – kajian tindak pidana ekonomi terhadap perdagangan barang dalam pengawasan terutama pupuk bersubsidi. Dapat membandingkan ketentuan penjualan secara illegal pupuk bersubsidi di Indonesia dan Uzbekistan serta bagaimana pengadilan memutuskan.

Kebaruhan/Orisinalitas: Kebaharuan penelitian ini adalah pada kajian mengenai putusan tentang perdagangan pupuk bersubsidi secara illegal terkait dua negara.

Kata Kunci: tindak pidana ekonomi, pupuk bersubsidi, perdagangan.

INTRODUCTION

Based on Pancasila, the Indonesian state seeks to establish a just and prosperous society. According to Sudjana, this is essentially the realization of social prosperity, which is viewed from all aspects of life, not just the economic one, and is based on the fundamental beliefs and outlook of the country (Sudjana, 2018). The pursuit of national development in all domains, including the legal field, is the manifestation of this. This examines how the law can be used as a tool for social control and as a tool for bringing about social change. To achieve justice and social welfare, the law must be seen as the primary means of action, meaning that selective enforcement of the law is impossible from the point of formulation to the point of implementation.

The phenomenon demonstrates how Indonesia is frequently described as both an agricultural and maritime nation. The term "maritime" refers to the sea and is associated with shipping and maritime commerce, whereas "agrarian" refers to (a) agriculture or agricultural land, (b) agriculture or farmers' way of life, and (c) agriculture itself (KBBI, 2023). The majority of people in Indonesia are farmers, making up 40% of the country's agrarian economy. A fertile mountain range runs through Indonesia, making it an agricultural nation where the vast majority of people work in the agricultural sector. Indonesia has abundant agricultural land because of its tropical climate, which facilitates the ideal weathering of local rocks and leaves the country with fertile soil. Indonesia, comprising 17,508 islands and a land area of 1,922,570 km², is the largest archipelago in the world. In an agrarian nation such as Indonesia, agriculture plays a vital role in the economy and in meeting the basic needs of the populace, particularly in light of the growing population and consequent rise in food consumption. Furthermore, the agricultural sector plays a role in enhancing the well-being of the community, as the majority of them currently live below the poverty line (Ayun, Kurniawan, & Saputro, 2020).

The government provides various agricultural infrastructure and facilities, such as fertilizer subsidies for the agricultural sector, in order to support efforts to meet targets for agricultural production that keep rising. One of the government's fiscal initiatives targeted at farmers is the fertilizer subsidy program. One of the government's initiatives to help farmers obtain the fertilizer they need for their operations at a lower cost is the fertilizer subsidy program. This initiative is anticipated to stimulate higher agricultural output, which will ultimately lead to food security and greater farmer income. Fertilizer subsidy policies are thought to benefit farmers' income and agricultural productivity, particularly with regard to food

crops. The purchase and distribution of subsidized fertilizers for the agricultural sector is governed by Regulation of the Minister of Trade No. 15 / M-DAG/PER/4/2013 for the year 2013. This regulation outlines the six right indicators—price, type, quantity, quality, and place—that guide the application of the six right principles in the procurement and distribution of subsidized fertilizers (Kholis & Setiaji, 2020).

The Minister of Trade's regulation number 04 of 2023 on the procurement and distribution of subsidized fertilizers stipulates that distributors and retailers must adhere to certain irregularities in order to sell subsidized fertilizers. These anomalies will result in farmers receiving inappropriate prices, so KPPP (*Komisi Pengawas Pupuk dan Pestisida*/Fertilizer and Pesticide Supervisory Commission) must exercise even stricter oversight to ensure that farmers no longer experience price irregularities. Although the framework for the subsidized fertilizer program has been established, numerous issues remain. The issue that farmers frequently deal with is their inability to purchase fertilizer due to its high cost. Furthermore, figuring out the buy price and the sellers' issue still presents a lot of challenges. It is deemed less affordable by farmers. Indications that the government's oversight needs to be tightened include fertilizer sales that are higher than the maximum retail price (MRP), fertilizer sellers to farmers who are not registered in the RDKK (Rancangan Definitif Kebutuhan Kelompok/Group Needs Definitive Plan), failure to post price announcement banners, uneven fertilizer distribution, late distribution, scarcity, and sales outside the distribution area boundaries (Hidayat, Yunus, & Rusli, 2024).

Based on the information currently available, there are numerous instances where the Presidential Regulation's rules are broken by the distribution of subsidized fertilizer to agricultural cultivation facilities, infrastructure, and commodities. According to the author's identification results, the judiciary in Central Java has received and is currently processing roughly thirty court cases from the 2020s. Although the number is extremely small, it is now widely accepted in the field of criminology that crime is an *iceberg phenomenon*. Due to legal gaps in all regulations governing the distribution, supervision, and purchase of fertilizer, economic crimes involving its distribution are essentially executed by specific individuals. In order to profit greatly from new modes of operation, it is necessary for Indonesia's economic Criminal Law to be updated on a regular basis (Pratama, 2020).

A trading company called *Navoiyazot* is making the buzz on the sale of 57.2 thousand tons of fertilizer, and this is creating excitement in Uzbekistan regarding a possible fertilizer

monopoly. *Navoiyazot*, a trading company, has a turnover of more than thirty percent in the chemical trade, which includes fertilizer trade. The Competition Commission panel's judge made the decision to file a formal complaint and launch an investigation.

As previously explained, the problem in this study is how to view the subsidized fertilizer trade from the standpoint of national criminal law and from the perspective of errors in the Pati District Court Number 19 of 2022 decision, which is also known as Decision No. 19/Pid Sus 2022/PN. Pti.) and the Cassation ruling (also known as MA decision 105 K/Pid.Sus/2019) number 105 of 2019 by the Supreme Court. Subsequently, the next issue arises: how to reconcile the Uzbek government's judge ruling with the Indonesian government's regarding the illicit fertilizer sales offense, given that Uzbekistan is a major fertilizer producer capable of exporting its products to several European nations. The problem, as stated in the introduction, is how to compare the rulings of judges in Uzbekistan and Indonesia regarding the sale of illegally subsidized fertilizer, as well as how the criminal laws of both countries apply to the unauthorized trade of subsidized fertilizer. Additionally, the problem is how the judge's perspective was taken into account in the court decision Decision No. 19/Pid Sus / 2022 / PN. Pti. and the Supreme Court Decision 105 K / Pid.Sus/2019. The *state of the art* in this study is in contrast to earlier research conducted by Kholis and Setiaji (2020) and Hidayat et al. (2024), which conducted a general analysis using a variety of articles and law reviews, instead focusing on the research object and the results of the analysis of the verdict study directly given by the judge.

RESEARCH METHOD

Among the research techniques developed are normative techniques, which are techniques for conducting legal studies that are conceptualized and developed based on doctrine at the level of norms, rules, and laws. They are employed to resolve legal issues arising from legal ambiguity, legal voids, and/or normative conflicts (Yanova, Komarudin, & Hadi, 2023). The methodology employed encompasses a legislative approach, which entails a comprehensive review of all applicable laws and regulations pertaining to the issues raised in the study (Ismail & Lestari, 2021).

Subsequently, jurisprudence—an approach grounded in the analysis of the worth of the law—was also employed in this study. This approach encompasses the legal doctrines imparted by the judiciary and documented in judicial rulings. Secondary data, such as the

judge's decision and the analysis of earlier research, are used for this kind of data. This study's data sources include reviews of earlier research and laws pertaining to Supreme Court Decision No. 19/Pid Sus/2022 / PN. Pti. and the Supreme Court Decision 105 K / Pid.Sus/2019. Then, Law No. 93 of 1997 concerning the Criminal Code of the Republic of Uzbekistan Article 177 and Law No. 221-I of 1996 concerning the Protection of Consumer Rights Articles 1 to 1-30 were cited as the source for the court's decision on the crime of selling fertilizers illegally in Uzbekistan.

RESULTS & DISCUSSION

1. A Comparative Analysis of the Relationship Between the Illegal Fertilizer Sales Crime and the Judge's Decision in Indonesia and Uzbekistan

One of the main provisions of Law No. 662-I of 2004 concerning Farming in the Republic of Uzbekistan is that the government must support the establishment of production facilities as well as promote the growth and development of agriculture. The government's 2020–2030 agricultural policy, which prioritizes sustainable development in the agri-food sector of the national economy with the community's food security as one of its goals, strengthened the implementation of the regulation (FAO, 2024). This demonstrates how Indonesian policies and those in the agricultural sector—specifically, food security—are similar. As a result, on June 9, 2021, the Uzbek government released a regulation regarding market oversight and fertilizer inspection for agricultural purposes. According to the regulations governing the manufacture, import, distribution, and/or marketing of fertilizers, these activities require government oversight and may call for a permit or certificate of registration (FAO, 2024). In summary, the marketing of agricultural fertilizers in Indonesia and Uzbekistan is essentially the same in that authorization is needed in both countries.

The legal foundation, the judicial process, and the nature of the punishment meted out are just a few of the factors that are compared between the judge's rulings in Indonesia and Uzbekistan regarding the criminal act of selling illegal fertilizer. Law No. 12 of 2019 on Sustainable Agriculture Cultivation Systems serves as the foundation for legal use in Indonesia. It addresses a number of topics related to sustainable agriculture, such as planning for cultivation, land use, seeding and planting, water use, and agricultural preservation. In order to achieve an effective and sustainable agricultural system, Law No. 12 of 2019 also takes environment carrying capacity, climate change mitigation, and

adaptation into consideration. Next comes Law No. 1 of 2023 on Criminal Law, trade and commercial law, and Law No. 8 of 1999 on Consumer Protection, which forbids the trade in goods that do not adhere to standards. The pertinent legal bases in Uzbekistan are Law No. 93 of 1997 concerning Criminal Code of the Republic of Uzbekistan Article 177 Letter A to Letter C, which stipulates that breaking the regulations regarding the production, storage, and sale of goods—including fertilizers—will result in fines, community service, or even jail time. Additionally, Law No. 221-I of 1996 concerning Protection of Consumer Rights Articles 1 through 30 governs business actors' obligations to sell goods in compliance with safety and quality standards.

In Indonesia, judicial processes comprise the following: police or Civil Servant Investigator's investigations from the Ministry of Agriculture and Related Agencies; evidence gathering; arrest of offenders; prosecution by the public prosecutor; a trial including the cross-examination of witnesses, experts, and tangible evidence; and a judge's ruling based on the facts of the case and relevant legislation. Penalties imposed may include imprisonment, fines, or administrative sanctions such as revocation of business licenses. Justice in Uzbekistan is administered by a court that rules on the evidence presented, the cross-examination of witnesses, the testimony of the parties, the prosecution, the collection of evidence and testimony, the prosecution's prosecution, the trial's presentation of evidence, cross-examination of witnesses, and the arguments of the parties are all part of the legal process. The punishment imposed can be imprisonment, fines, or social work (UUD RI No.12, 1992).

In Indonesia, various forms of punishment are contingent upon the seriousness of the offense. These include administrative sanctions like the cancellation of business licenses, fines imposed in accordance with laws and regulations, and imprisonment. Depending on the severity of the offense, Uzbekistan may impose imprisonment, a fine in accordance with the law, or social work as an alternative to jail or a fine. Both nations emphasize how crucial it is to uphold safety and quality standards when selling fertilizer in order to safeguard both the environment and customers. Uzbekistan offers a harsh social work strategy that is absent from Indonesia's legal framework.

2. Criminal Law Policies in Uzbekistan and Indonesia against the unauthorized trade in subsidized fertilizers

The Law No. 6 of 2023 concerning job creation establishes more effective and cohesive regulations by regulating several clusters, including employment, business licensing, and environmental management. The Job Creation Law includes changes pertaining to the environment. For example, Articles 29, 30, and 31 of Law No. 32 of 2009 on PPLH (Environmental Research Center) abolish the Commission EIA, which affects local community information and business actors in hard-to-reach locations during the EIA preparation process (Saputra & Dhianty, 2022). This job creation law forbids the following: (1) inserting toxic dangerous goods (B3), which is forbidden by laws and regulations; and (2) disposing of waste and B3 and B3 waste in environmental media. The explanation of this law states that B3 includes DDT (*dichlorodiphenyltrichloroethane*), for instance. DDT is frequently used as a pesticide in agriculture to kill insects, and it is also frequently used as an insecticide or mosquito repellent in public areas. The next article's formulation refers to the prohibition as a crime so that it can be punished as a cumulative crime, meaning that it will incur fines and/or imprisonment.

In the agricultural sector, pesticides, agricultural machinery and equipment, feed, plant and animal seeds, or animal seeds and fertilizers, as defined by Act No. 22/2019 on Sustainable Agriculture Cultivation System, are a means of agricultural cultivation. People are aware that pests must be eliminated with pesticides and that plants need to be fertilized. By doing so, crop yields will increase in both quality and quantity. Put another way, the goal of fertilization is to achieve food self-sufficiency by raising crop productivity. Given that fertilizer is a strategic commodity in the agricultural sector, the state must thus be involved in all aspects of its management, from procurement to distribution to subsidies to countermeasures in the event of transgressions. Criminal law and criminal policy need to be able to defeat infractions in that area.

In order to combat the misuse of fertilizer as the primary tool for agriculture and the production of commodities, the government must make the act a criminal offense that is subject to punishment. This is because regulating fertilizer—especially subsidized fertilizer—is vitally important for the government to achieve social justice and equity, particularly for farmers. Subsidized fertilizer theft needs to be severely dealt with because it costs money, especially to farmers. However, before making an act illegal, one needs to consider the following requirements: 1) all laws pertaining to criminal offenses must be created with the intention of preventing harm or loss; 2) the behavior that the law defines as

illegal; 3) the offender must be deserving of punishment; 4) the state must have a substantial interest in making the act illegal; 5) the criminal law must serve the state's interests; and 6) the criminal law must not be more expansive than is necessary to accomplish the goals (Douglas, 2013).

There are various rules in the field of fertilizer (subsidized) as a means of preventing crime. *First*, the subject matter covered by Law No. 7/2014 on Trade is in line with the regulatory scope; this includes trade within and between countries, trade at borders, standardization, trade via electronic systems, trade protection and security, empowerment of cooperatives and micro, small, and medium-sized businesses, export development, international trade cooperation, trade information systems, government duties and authorities in the area of trade, the National Trade Committee, supervision, and investigation. What many people's livelihoods depend on as a determining factor of social welfare is the needs that fall under the category of basic needs. Strategic goods like cement, fuel oil, gas, fertilizer, and cement are examples of essential goods that are crucial to the smooth operation of national development. The next rule regarding necessities is outlined in Presidential Regulation Number 59 of 2020, according to this law as well.

Article 110 of Law No. 7 of 2014 on Trade is formulated in a way that, when viewed through the lens of offense formulation techniques, only outlines the elements of a criminal offense in accordance with the general rules of offense formulation, which state that there must be a subject (*normadressaat*) and the offense's core (*delictsbestanddelen*). The qualification of the deed is not mentioned in this formulation. The phrase "and/or" indicates that the model used to formulate the criminal sanctions against the act is a combination model (cumulative and alternative), which means that in addition to the option to choose between imprisonment and fines (alternative), the criminal sanctions imposed may also be both. Additionally, this article falls under the formal category because, once an act has been committed, it is considered to have been committed, making it punishable immediately without waiting for the consequences (Hamzah, 2017).

Second, rules outlining the kinds of products or services that are forbidden from being exchanged; examples of these rules include Presidential Regulation No. 15 of 2011 regarding the classification of subsidized fertilizers as goods subject to supervision. The policy that the state establishes a food-self-sufficient nation is the *first* reason why fertilizer was subsidized as a good under supervision. This means that the state must work toward

food security, which means that it must provide adequate facilities and improve agricultural and infrastructure facilities, one of which is the fertilizer subsidies; the distribution and use of these subsidies are governed by regulations (Amran, 2018).

Third, since fertilizer is a basic necessity for raising agricultural productivity, the government provides subsidies, the distribution of which is controlled and supervised by the state, in anticipation of fertilizer prices skyrocketing due to increased demand. Fertilizer is therefore viewed economically as a strategic commodity. This will have an impact on the welfare of farmers. Adapun jenis pupuk bersubsidi menurut Perpres yang pengadaan dan penyalurannya mendapat pengawasan meliputi Urea, SP 36, ZA dan NPK. Fertilizer prices will stay high as a result of farmers spending as much fertilizer as possible based on their financial capabilities. This will have an effect on declining productivity and prevent the National Food Security program from being realized. Additionally, the distribution of subsidized fertilizers will arbitrarily cause no impact on the right target.

Fourth is the government regulation in lieu of law number 36 of 1960 on the Investigation, Prosecution and Justice of Economic Crimes. Any act carried out by participants in an economic activity (such as production, attribution, consumption, or marketing) but using illegal methods is considered an economic crime (Putri, 2023). The Republic of Indonesia's Minister of Trade has issued Regulation No. 15/M-DAG/PER/4/2013, which governs the procurement and distribution of subsidized fertilizer in the agricultural sector. This regulatory framework involves Indonesian fertilizer producers and is intended for use by distributors and retailers who must comply with specific requirements in order to distribute the fertilizer to farmers.

This is due to the fact that subsidized fertilizers, such as urea fertilizers, SP 36 fertilizers, ZA fertilizers, NPK fertilizers, and other subsidized fertilizer types decided by the Minister of Agricultural Affairs, are products under supervision. The distributors must meet certain requirements: (1) establish offices and administrators who engage in trading business activities at their designated location; (2) possess a Trading Business License (SIUP/Surat Izin Usaha Perdagangan), a Business Registration Certificate (TDP/Tanda Daftar Perusahaan), and a Business Location Permit (SITU/Surat Izin Tempat Usaha); and (3) own and/or operate warehouse facilities and transportation equipment that can guarantee the efficient distribution of subsidized fertilizer in their designated area of responsibility. The requirements for a retailer are as follows: (1) conducting general trading; (2) holding a

Trading Business License (SIUP) and Business Registration Certificate (TDP); and (3) possessing adequate capital and facilities for the smooth distribution of subsidized fertilizers. These requirements are outlined in Article 5 Paragraph (3) of this regulation.

As per the government regulation, economic crimes fall into one of two categories: crimes or offenses. This is in contrast to Law number 36 of 1960, which was repealed by law number 1 of 2023, which dealt with the investigation, prosecution, and justice of economic crimes. Based on the type of guilt—intentional or negligent—this category classifies offenses as offenses when they are committed using deliberate intent, and crimes when they are committed through negligence. Nevertheless, this law also states at the end that offenses and crimes connected to the economic law are called economic crimes. Illegal fertilizer trade is punishable by law in Uzbekistan under Law No. 93 of 1997 concerning the Criminal Code of the Republic of Uzbekistan, Article 177, and Law No. 221-I of 1996 concerning the Protection of Consumer Rights, with fines, social work, or incarceration as possible forms of punishment. It is evident from the punishment aspect that Uzbekistan's legal system imposes more varied penalties. Smaller infractions (up to quintal size) carry no jail time; instead, the offender will receive social work therapy; larger infractions (up to tons) carry a fine equivalent to the cost of mishandled fertilizer.

Such abuse cases will be handled by the competition committee rather than going to court. If a group of judges on the competition committee determines that the matter should be looked into and postponed, then the case will go to trial. The competition committee panel's judges have only decided to proceed with the investigation and refer one case to the court in 2024—the Navoiyazot case, which involves claims of price manipulation (Daryo Global, 2024).

3. The Judge's Perspective in Decision No. 19/Pid Sus/2022 /PN Pti. and the Supreme Court Decision 105 K/Pid.Sus/2019.

Trade is a kind of economic activity that communities typically engage in. It can involve the exchange of goods or services, such as transportation, adventure, tourism, and other services. But this trade can turn into an act that must be related to the law, even from the perspective of criminal law; this trade can be a criminal offense. This is comparable to the government-subsidized fertilizer trade that takes place within the Pati District Court's

jurisdiction. The two decisions that will be reviewed in this manuscript are Supreme Court Decision 105 K/Pid Sus/2019 and Decision No. 19/Pid Sus/2022/PPN.Pti.

Nonetheless, one must first comprehend that mistakes in criminal law are a basic component before delving deeper into the decision-maker's errors. The definition of an unlawful act then includes transgressing moral standards, decency norms that emerge in society, and general legal principles. According to criminal law, an act is considered unlawful if it is manifestly against the law, carried out without authorization or power, and goes against fundamental legal principles. In contrast, the elements of an unlawful act under civil law are the following: the act must exist, be against the law, involve guilt on the part of the perpetrator, cause harm to the victim, and have a causal connection between the act and the harm (Sari, 2020). What is known as the criminal's fault in the form of a forgiving reason is the fault that decides whether or not a person can be sentenced to be a criminal (Hiarriej, 2016).

Therefore, Decision No. 19/Pid.Sus/2022/PN. Pti determines the application of the law and establishes the form of guilt of a trafficker who commits a criminal offense "without the right to trade subsidized fertilizer." Pti. According to the Public Prosecutor's single indictment, Law Number 1 of 2023 on the criminal code serves as the normative measure of guilt or its external side, i.e., the perpetrator's actions in this decision. Trading by purchasing and selling government-subsidized NPK Phonska fertilizer, without being authorized to hold and distribute subsidized fertilizer to the agricultural sector as producers, distributors, and retailers, is what the individuals behind this decision are doing. As per the article, the perpetrator's act involves an offense known as an economic crime, which carries a maximum sentence of two years in prison and a fine of up to one hundred thousand rupiah, or potentially both. The article's formulation of criminal penalties is cumulative-alternative because it makes use of the terms "and" and "or," which give the judge the option to rule on either of the two types of crimes (confinement and imprisonment) or on both. Furthermore, this ruling is supported by two other regulations: (a) Presidential Regulation N0 15/2011, which modifies Presidential Regulation No. 77/2005 regarding the classification of subsidized fertilizers as goods under supervision; and (b) Minister of Trade Regulation No. 15/M-DAG/PER/4/2013, which deals with the acquisition and distribution of subsidized fertilizers for the agricultural industry.

As per the criminal law, the decision's unlawful nature encompasses the instruction of the illegality of the formal, which is the unapproved sale and acquisition of subsidized fertilizer. The Minister of Trade's Regulation No. 15/M-DAG/PER/4/2013 on the purchase and distribution of subsidized fertilizers for the agricultural sector in the form of permits has established permission as a prerequisite. The nature of the law is that it does not expressly state in its regulations the words "general unlawful nature," which means that actions that satisfy the requirements of the law's formulation are deemed unlawful even in the absence of the words "unlawful nature" in the law's formulation(Hiarriej, 2016).

Since trade is an activity within the economic sphere, the ruling classifying the perpetrator's actions as economic crimes makes sense. Consequently, it makes sense to classify the subsidized fertilizer trade as an economic crime that violates the guidelines outlined in the Presidential Regulation, which served as the foundation for the decision. Dangerousness is one of the criteria, according to Matt Matravers, for whether an act qualifies as a criminal offense. Economic crimes affect a wide range of people and can even trigger other crimes that are connected to them, like money laundering and corruption(Matravers, 2021). This is because research by Kiganda Evans Ovamba & Ochieng Benjack, "Effect of Economic Crime on Economic Growth in Kenya," indicates that crime and economic crime have a significant impact on economic growth. This, in turn, can have an adverse effect on the failure of economic development and can encourage the emergence of new crimes like bribery, fraud, and even corruption (Ovamba & Benjack, 2018).

Unlawful subsidies for fertilizer trade can also have an impact on the economy, particularly on farmers' incomes since fertilizer is expensive and many cannot afford to purchase it. This can lead to subpar crop yields and quality, which in turn affects the nation's ability to supply enough food. According to Nicholas Lord and Michael Levi, economic crime has a significant impact on people, particularly those who cannot afford it, making it a serious crime(Lord & Levi, 2023). The government offers fertilizer subsidies to farmers because they are generally in poor financial standing. This helps ensure that the harvest is as expected, but if business actors abuse the distribution or sale process by charging exorbitant prices, it will negatively affect farmers in general and the harvest in particular. These are the main reasons why the authors view the trade in subsidized fertilizers as a serious economic crime.

Apart from the previously mentioned reasons, the Supreme Court's ruling on subsidized fertilizer No. 105 K / Pid.Sus / 2019 makes it legally known that the offender committed a crime without having the legal authority to trade in subsidized fertilizers of the SP36 and urea varieties. The perpetrator's actions, as a single indictment of the Prosecutor General, are therefore deemed by the Supreme Court to be in violation of or not in accordance with Article 6 paragraph (1) letter B of Emergency Law No. 7 of 1955 concerning the investigation, prosecution, and justice of economic crimes (currently replaced by Law No. 1 of 2023 concerning the criminal code) as well as Article 2 paragraph (2) of Presidential Regulation No. 15 of 2011 concerning amendments to Presidential Regulation No. 77 of 2005 in conjunction with Article 21 Section (2) of Regulation of Minister of Trade No. 15/M.DAG/PPER/4/2013. Thus, it can be concluded that ruling No. 19/Pid.Sus/2022/PN. Pti. uses the same legal foundation as MA Decision No. 105 K/Pid.Sus/2019 because the offenders' acts in both decisions are essentially the same—that is, they did not have the authorization or right to trade subsidized fertilizer as goods under supervision.

The Indonesian civil law legal system, which does not adhere to the concept of "*the binding force of precedent*," states that a judge's decision is binding on the decision of a prior judge in the same case. Indonesian judges are not required to follow the decision of a higher court in the same case, but they are also not prohibited from doing so. This is so because judges are free to make decisions because Indonesia views judicial decisions (jurisprudence) as a source of formal law, with the formation process serving as a window into the mind of the judge.

The perpetrator's errors are stemming from the Pati District Court's and the Supreme Court's rulings regarding normative measures or from the perpetrator's external side, i.e., the part of the act where the perpetrator committed an economic crime. A section of Emergency Law No. 7 of 1955 on Investigation, Prosecution, and Justice is violated by the economic crime in question. (Article 1 sub 3e), which is currently updated by government regulation in place of Law No. 10 of 1960 regarding the examination, prosecution, and trial of criminal acts by other laws, specifically economic crimes.

A written rule created by an institution with authorization is known as national legislation. The words "law," which designates any kind of regulation made by the state, are the root of the terms "legislation" and "legal regulation." A state regulation that is formed

based on the authority of legislation, including attribution and delegation, is known as legislation. This regulation exists both at the federal and regional levels. Since legislation encompasses processes, procedures, manners, and customary law, its establishment is a step in the formation of a new law. The government must be able to anticipate future trends, opportunities, and possibilities in order to formulate laws. It must also be able to analyze these possibilities and identify opportunities to reduce the challenges that may arise when enforcing existing laws. It is imperative that laws reflect the realities of people's lives, including societal norms and inclinations (Berry, 2018).

These two rulings refer to "other laws" in a materially broad sense, which includes other legal regulations, such as Presidential Regulation No. 15 of 2011 on the determination of subsidized fertilizer that is subsidized under supervision. According to this regulation, urea fertilizer, SP 36 fertilizer, za fertilizer, and fertilizer are among the goods that are covered by subsidies and are under product supervision.

The Minister of Trade's Regulation No. 15/M-DAG/PER/4/2013, which is applicable to trade in goods and services that are subject to supervision, specifically pertains to the procurement and distribution of subsidized fertilizer for the agricultural sector. This Ministerial Regulation lays forth the conditions for the distribution of subsidized fertilizers, including the need for permits from distributors and retailers to trade subsidized fertilizers as goods under supervision. Permits are required for retailers to deal in subsidized fertilizers, such as SIUP and TDP, and for distributors to handle subsidized fertilizer storage, among other things. (See Letter C in Article 4 Section 2 and Article 5 Section 3 Letter C). Apart from the aforementioned prerequisites, the Minister of Trade's regulation No. 15/M-DAG/PER/4/2013 forbids distributors and retailers from purchasing and reselling subsidized fertilizer beyond their designated roles and/or purview. This is if it is violated, it will be sanctioned in accordance with the provisions of laws and regulations. The requirements outlined in Procurement and Distribution of Subsidized Fertilizer for the Agricultural Sector were not fulfilled by the offenders in the two decisions. It was evident that the requirements were not met because the person who made the decision was neither a distributor nor a retailer when it came to the purchase and distribution of fertilizer that was subsidized.

The District Court's Decision No.19/Pid.Sus/2022 / PN. Pati, the legal basis was applied in a manner that both complied with the requirements of a single indictment and the

Supreme Court's Decision No. 105 K/Pid.Sus/2019. However, the authors claim that when looking at the Minister of Trade's regulation No. 15/M-DAG/PER/4/2013 on the purchase and distribution of subsidized fertilizers for the agricultural sector, "distributors and retailers are not allowed to purchase and sell subsidized fertilizers; instead, they are channels through which production is conveyed to consumers in trading activities. Another noteworthy distinction is that the distributor serves as the manufacturer's marketing conduit to the retailer, while the retailer's marketing channel reaches directly to the customer(Arianto, 2021).

CONCLUSION

Trade is an everyday economic activity that involves both goods and services. But in certain situations, like the selling of subsidized fertilizers, this might be illegal. This occurred in a case handled by the Supreme Court in Decision 105 K/Pid.Sus/2019 and the Pati District Court in Decision No. 19/Pid.Sus/2022/PN.Pti. Decision No. 19/Pid.Sus/2022 / PN. Pti pursuant to Article 6 Section (1) Letter B together with Article 1 Sub 3e of the Emergency Law No. 7 of 1955, which was updated with Government Regulation in Lieu of Law No. 10 of 1960. Economic crimes are committed when people sell subsidized NPK phonska fertilizer without any authorization. Additionally, it makes reference to Presidential Decree No. 15 of 2011 amending Regulation No. 77 of 2005 and Minister of Trade Regulation No. 15/M-DAG/PER/4 of 2013. Under the Supreme Court's Ruling No. 105 K / Pid.Sus/2019, those who trade urea and fertilizers subsidized by SP36 without authorization face consequences. A trading company called *Navoiyazot* is making the buzz on the sale of 57.2 thousand tons of fertilizer, and this is creating excitement in Uzbekistan regarding a possible fertilizer monopoly. *Navoiyazot*, a trading company, has a turnover of more than thirty percent in the chemical trade, which includes fertilizer trade. The judge of the Competition Commission panel decided to open the case legally and conduct an investigation

The pertinent legal bases in Uzbekistan are Law No. 93 of 1997 concerning Criminal Code of the Republic of Uzbekistan Article 177 Letter A to Letter c, which stipulates that breaking the regulations regarding the production, storage, and sale of goods—including fertilizers—will result in fines, community service, or even jail time. Additionally, Law No. 221-I of 1996 concerning Protection of Consumer Rights Articles 1 through 30 governs business actors' obligations to sell goods in compliance with safety and quality standards. The

Republic of Uzbekistan's Law No. 662-I of 2004 concerning Farming mandates that the government encourage the growth of agriculture and provide facilities for production. Both Uzbekistan and Indonesia have similar and different legal policies regarding the sale of illegal fertilizer. Legal foundations in Indonesia comprise Law No. 8 of 1999 on Consumer Protection, Law No. 22 of 2019 on Sustainable Agriculture, and Law No. 1 of 2023 on the Criminal Code. The determination of subsidized fertilizers under supervision is governed by Presidential Regulation No. 15 of 2011. According to this regulation, urea fertilizer, SP 36 fertilizer, za fertilizer, and fertilizer are among the goods that are covered by subsidies and are under product supervision. The Minister of Trade's Regulation No. 15 / M-DAG / PER/4 / 2013 of 2013 lays out the conditions for the distribution of subsidized fertilizers. Distributors and retailers who trade subsidized fertilizers as goods under supervision must obtain permits. Distributors must obtain permits for SIUP, TDP, and SITU warehousing, among other things.

In Indonesia, the legal process entails a police or Civil Servant Investigator's investigation, evidence gathering, arrest, prosecution, and trial. Penalties include jail time, fines, and administrative sanctions. There are two judgments, namely in Court Decision No. 19/Pid Sus/2022 / PN. Pti. and the Supreme Court's Decision 105 K/PPid.Sus/2019, wherein the judge in both Indonesian court cases sentenced the defendant to a term of imprisonment and a fine. The judge also classified the offender's actions as economic crimes due to their widespread impact, which included harm to farmers and the nation's food security. As a result, the offenders face both jail time and fines.

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