

## **Legal Certainty of Acquittal Decision (Vrijspraak) Against Perpetrators Of 3 Kg Lpg Gas Adulteration (Case Study of Decision No. 350/Pid.Sus/2022/PN.Mdn)**

**Dwi Dris Juliansyah<sup>1</sup>, Citra Ramadhan<sup>2</sup>, Riswan Munthe<sup>3</sup>**

Email: [dwidris64@gmail.com](mailto:dwidris64@gmail.com)

<sup>1,2,3</sup>Universitas Medan Area

### **ABSTRACT**

*LPG (Liquified Petroleum Gas) subsidies are provided by the government to low-income communities with the aim of making it easily accessible to the public. The act of mixing subsidized LPG is harmful to public interest and causes public concern. This is evident in Medan city, where cases of mixing subsidized 3 Kg LPG cylinders into non-subsidized 12 Kg cylinders occur. The research problem is how the legal certainty of acquittal rulings for perpetrators of 3 Kg LPG mixing is ensured and how judges consider the acquittal of such perpetrators based on the ruling No. 350/Pid.Sus/2022/PN.Mdn. This type of research is empirical normative juridical research. The data sources use secondary data. Data collection techniques are carried out through literature review and field studies, and data analysis is conducted qualitatively. Based on the results of the discussion, it was found that the legal certainty of acquittal against the perpetrators of LPG 3 Kg adulteration is determined by examining the indicators of criminal punishment for the offenders involved, referring to the evidence found and presented in court, so that the panel of judges is convinced that the perpetrators can be declared legally proven and have indeed committed the criminal act of subsidized LPG adulteration. The judge's consideration regarding the acquittal of the perpetrator of mixing 3 Kg LPG gas based on Decision No. 350/Pid.Sus/2022/PN.Mdn was made by the panel of judges based on the considerations in the first, second, and third alternative charges of the Public Prosecutor, which according to the facts of the trial were not proven in their entirety. Therefore, based on these facts, the defendant must be acquitted of the charges brought by the Public Prosecutor and from all legal claims. Based on the legal facts in the trial, the panel of judges found no evidence that the activity was carried out on the orders of the defendant.*

**Keywords:** Legal Certainty, Acquittal, LPG Adulteration

### **INTRODUCTION**

LPG (Liquified Petroleum Gas) subsidies are provided by the government to low-income communities with the aim of making it easily accessible. This policy is implemented because gas is a very vital commodity and can cause price increases in other sectors. The purpose of the gas subsidy provided by the government is to help citizens who are less fortunate; however, in practice, it is often abused by the middle and upper classes. The act of adulterating subsidized LPG gas is harmful to the public interest and causes public concern. A form of misuse of subsidized gas is mixing the contents of 3 Kg subsidized gas cylinders into 12 Kg non-subsidized gas cylinders. The process of gas adulteration is carried out by transferring the contents of four 3 Kg subsidized gas cylinders into a 12 Kg non-subsidized gas cylinder, which is then sold at the non-subsidized gas price.

Based on Article 55 of Law No. 22 of 2001 concerning Oil and Gas, any person who misuses the Transportation and/or Trade of Government-subsidized Fuel shall be subject to imprisonment for a maximum of 6 (six) years and a fine of up to IDR 60,000,000,000.00 (sixty billion rupiah). This is similar to what happened in the city of Medan, in the case of diluting subsidized 3 Kg LPG (Liquefied Petroleum Gas) into non-subsidized 12 Kg gas cylinders,

carried out by Jimmi Marthin Rajagukguk, also known as Jimi, on dates that cannot be precisely remembered, from November 2019 until June 27, 2020, or at least at certain times between 2019 and 2020 located at Jalan Pertambangan Number A1, Tanjung Sari Subdistrict, Medan Selayang District, Medan City or at least at another place still within the jurisdiction of the Medan District Court, "The one who orders the act, who misuses the transportation and/or trade of government-subsidized fuel."

In the LPG gas business activities, the defendant has abused the trade by adulterating LPG gas or transferring the contents of 3 Kg LPG cylinders (government-subsidized) into 12 Kg LPG cylinders (non-subsidized) for profit. The defendant carried out the LPG adulteration by directing or employing Witness Martogi M. Tua Tamba, also known as Togi, and Witness Andre Tamba, also known as Josmen, to perform the adulteration using equipment provided by the defendant, including a pen (connector), ice, a rubber prying tool (similar to a nail), and a bucket as a base for the gas cylinder. Under the instructions of the defendant, witnesses Martogi M. Tua Tamba alias Togi and Andre Tamba alias Josmen carried out the mixing by first arranging 12 Kg LPG cylinders with 3 Kg LPG cylinders (subsidized) in order; for every 1 unit of 12 Kg LPG cylinder, 4 units of 3 Kg LPG cylinders (subsidized) were arranged. Then, they placed ice on top of the 3 Kg LPG cylinders, attached rubber to each of the LPG cylinders, and connected the 3 Kg LPG cylinders to the 12 Kg LPG cylinders by inverting the 3 Kg LPG cylinders directly over the 12 Kg cylinders using a connecting device (pen), so that the contents of the 4 units of 3 Kg LPG cylinders (subsidized) would transfer into the 12 Kg LPG cylinder (non-subsidized).

The defendant's actions violated Article 55 of the Indonesian Law No. 22 of 2001 concerning Oil and Gas. Based on the facts presented in court, the defendant, who operates a business in trading subsidized 3 Kg Liquefied Petroleum Gas (LPG) and non-subsidized 12 Kg LPG, was assessed by the Panel of Judges as not having any evidence to prove that the Liquefied Petroleum Gas (LPG) traded by the defendant did not comply with the net weight, net content, or quantity as stated on the LPG label or packaging.

The Panel of Judges is of the opinion that in the first, second, and third charges brought by the Public Prosecutor, the allegations have not been proven in their entirety, therefore the defendant should be acquitted of the Public Prosecutor's charges and from all legal proceedings. Based on Decision Number 350/Pid.Sus/2022/PN.Mdn. in this case, the Judge has rendered a verdict of acquittal and declares that the defendant, Jimmi Marthin Rajagukguk, has not been proven beyond a reasonable doubt to be guilty of criminal acts under Article 55 of the Indonesian Law No. 22 of 2001 on Oil and Gas. The defendant is acquitted of all legal charges (Ontslag van alle rechtvervolging), and therefore, pursuant to the provisions of Article 97 paragraph (1) of the Criminal Procedure Code, the defendant's rights to ability, position, and dignity must be restored.

## METHODS

The type of research used in this study is empirical normative legal research. The data sources used in this study are secondary data. Data collection techniques are carried out through literature studies and field studies. Furthermore, the collected data will be identified and analyzed qualitatively.

## **RESULTS AND DISCUSSION**

### **Legal Certainty of Acquittal Verdicts for Perpetrators of 3 Kg LPG Adulteration**

Legal certainty aims to realize the principle of equality before the law without any discrimination. Legal certainty is closely related to the principle of truth, which can be logically and formally deduced. Gustav Radbruch stated that there are four references related to the meaning of legal certainty. Among them are: the law is based on existing facts and not on formulations based on a judge's judgment; these facts must be clearly formulated to avoid ambiguity or errors in interpreting the law; the law is positive in the form of legislation; and this positive law should not be easily altered. To ensure legal certainty, Indonesia has implemented the principle of legality, where the principle of legality itself is explained in Article 1 paragraph 1 of the Criminal Code, which essentially states that no act can be punished as a crime except based on criminal law provisions that existed before the act was committed.

The criminal act of LPG adulteration is a violation of energy subsidy policies and is considered a crime against public order. Such a crime not only affects the economic aspects of the country but also endangers public safety. Therefore, when perpetrators of LPG adulteration receive an acquittal, it raises questions regarding the criminal act of LPG adulteration itself. In this context, judges play a central role in carrying out the functions of the judiciary. Judges provide considerations in their decisions to ensure that the verdict contains important values. Considerations can be deemed valuable if elements of justice, utility, and legal certainty are included. If conflicts arise in choosing among justice, utility, and legal certainty, judges are obliged to prioritize justice.

### **Judge's Consideration on the Acquittal of the 3 Kg LPG Gas Adulteration Perpetrator Based on Decision No. 350/Pid.Sus/2022/PN.Mdn**

#### **Case Chronology**

In this case, the Defendant is Jimmi Marthin Rajagukguk, also known as Jimi, who carried out the tampering of subsidized 3 Kg LPG (Liquefied Petroleum Gas) into a non-subsidized 12 Kg gas cylinder, from November 2019 until June 27, 2020, or at least at a certain time between 2019 and 2020, at Jalan Pertambangan Number A1, Tanjung Sari Village, Medan Selayang District, Medan City.

In the LPG gas business activities, the defendant misused commerce by mixing LPG gas or transferring the contents of 3 Kg LPG cylinders (government-subsidized) into 12 Kg LPG cylinders (non-subsidized) to obtain profit. The defendant carried out the LPG mixing by instructing or employing Witness Martogi M. Tua Tamba alias Togi and Witness Andre Tamba alias Josmen to perform the mixing using equipment provided by the defendant, including a connector pen, ice, a rubber prying tool (a type of nail), and a bucket as a base for the gas cylinder. Following the defendant's instructions, Witness Martogi M. Tua Tamba alias Togi and Witness Andre Tamba alias Josmen carried out the mixing by first arranging the 12 Kg LPG cylinders with the 3 Kg (subsidized) LPG cylinders in the proper sequence, for each 12 Kg LPG cylinder, it will be arranged with 4 pieces of 3 Kg LPG cylinders (subsidized), then ice will be placed on top of the 3 Kg LPG cylinders, then rubber will be attached to each of these LPG cylinders, and then the 3 Kg LPG cylinders will be connected to the 12 Kg LPG cylinder by inverting the 3 Kg LPG cylinders directly above the 12 Kg LPG cylinder using a connecting

**International Journal of Economic, Technology and Social Sciences**

url: <https://jurnal.ceredindonesia.or.id/index.php/injects>

Volume 6 Number 2 page 262-269

tool (pen), so that the contents of the 4 pieces of 3 Kg LPG cylinders (subsidized) will be transferred into the 12 Kg LPG cylinder (non-subsidized).

### **Public Prosecutor's Charges**

The indictment is the most important basis for litigation in court because it is on the basis of the indictment that court proceedings are conducted. The charges filed by the Public Prosecutor through alternative charges are as follows:

- a. First Charge: The defendant's actions as regulated and criminally sanctioned under Article 55 of the Indonesian Law No. 22 of 2001 on Oil and Gas, in conjunction with Article 55 paragraph (1) number 1 of the Penal Code.
- b. Second Charge: The defendant's actions as regulated and criminally sanctioned under Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letters a, b, c of Indonesian Law No. 8 of 1999 on Consumer Protection, in conjunction with Article 55 paragraph (1) number 1 of the Penal Code.
- c. Third Charge: The defendant's actions as regulated and criminally sanctioned under Article 53 letter d of Indonesian Law No. 22 of 2001 on Oil and Gas, in conjunction with Article 55 paragraph (1) number 1 of the Penal Code.

### **Judge's Consideration**

The defendant has been charged by the Public Prosecutor with an alternative indictment, namely:

First Indictment: Article 55 of the Republic of Indonesia Law No. 22 of 2001 concerning Oil and Gas, in conjunction with Article 55 paragraph (1) number 1 of the Criminal Code; Or Second: Article 62 paragraph (1) in conjunction with Article 8 paragraph (1) letters a, b, c of the Republic of Indonesia Law No. 8 of 1999 concerning Consumer Protection, in conjunction with Article 55 paragraph (1) number 1 of the Criminal Code; Or Third: Article 53 letter d of the Republic of Indonesia Law No. 22 of 2001 concerning Oil and Gas, in conjunction with Article 55 paragraph (1) number 1 of the Criminal Code.

Since the Public Prosecutor's charges are drafted alternatively, the Panel will consider the First alternative charge, which is a violation of Article 55 of Indonesian Law No. 22 of 2001 on Oil and Gas in conjunction with Article 55 paragraph (1) number 1 of the Criminal Code, the elements of which are as follows:

- a. Any Person;
- b. Misusing the transportation and/or trade of government-subsidized fuel;
- c. Those who commit, order to commit, and participate in committing;

Based on the facts presented in the trial, the testimony of the witnesses, and the statements of the defendant, the Panel of Judges assesses that Witnesses Gustrayadi, S.H., and Fahriza Havinanda, S.H., who are police officers, after conducting an investigation, discovered the activity of transferring Liquefied Petroleum Gas (LPG) from subsidized 3 Kg cylinders to non-subsidized 12 Kg cylinders at Jl. Pertambangan/Harmonika Baru No. A1, Tanjung Sari Village, Medan Selayang District, Medan City, while securing several pieces of evidence as well as Andre Tamba alias Josmer and Martogi Manihut Tamba alias Togi, who, according to the statements of Andre Tamba alias Josmer and Martogi Manihut Tamba alias Togi, declared

that the activity was carried out on the orders of the Defendant, then Gustrayadi, S.H., and Fahriza Havinanda, S.H., an arrest was made against the Defendant, whereas according to the testimony of witness Muhammad Sophian alias Sophian, he stated that the Defendant had an LPG cylinder business with a capacity of 12 Kg located at Jl. Pasar 1 No. 296, Tanjung Sari Subdistrict, Medan City, while witnesses Gustrayadi, S.H., and Fahriza Havinanda, S.H., carried out the arrest at Jl. Pertambangan/Harmonika Baru No. A1, Tanjung Sari Subdistrict, Medan Selayang District, Medan City, which is approximately 3 to 5 km away, and witnesses Gustrayadi, S.H., and Fahriza Havinanda, S.H., stated that the activities were carried out by Andre Tamba alias Josmer with Martogi Tamba alias Togi, and in the trial, the Panel of Judges did not find any evidence that the activities were carried out under orders from the Defendant, and the shop house used for the activities does not prove that the shop house belonged to the Defendant.

Based on the above explanation, the Panel of Judges believes that this element is not legally fulfilled. Since one of the elements in the first alternative indictment mentioned above is not legally fulfilled, the subsequent elements no longer need to be proven. Because one of the elements in the first alternative indictment by the Public Prosecutor is not legally fulfilled, the Panel of Judges believes that the elements of the first alternative indictment by the Public Prosecutor are not proven, and therefore the Defendant is acquitted of the first alternative indictment.

### **Judge's Decision**

The ruling in this case includes:

- a. Declaring that the defendant Jimmi Marthin Rajagukguk Alias Jimi is not legally and convincingly proven guilty of committing a criminal act as stated in the first, second, or third alternative charges in the Prosecutor's indictment;
- b. Acquitting the defendant Jimmi Marthin Rajagukguk Alias Jimi of all legal charges;
- c. Restoring the Defendant's rights in terms of ability, position, dignity, and honor;
- d. Ordering evidence in the form of:
  - 16 (sixteen) pens/connectors;
  - 1 (one) rubber crowbar;
  - 11 (eleven) buckets;
  - 445 (four hundred forty-five) rubber lids;
- e. Destroyed;
  - 89 (eighty-nine) gas cylinders of 12 Kg;
  - 38 (thirty-eight) gas cylinders of 3 Kg;
  - 1 (one) black Daihatsu box truck with license plate BK 8232 CT;Returned to the Defendant;
- f. Imposing the cost of this case on the State

### **Analysis of the Judge's Consideration**

Before analyzing the judge's considerations in issuing a verdict of acquittal against the defendant in Case No. 23/Pid.Sus-TPK/2020/PN.Bna, it is first necessary to explain the duties and authorities of judges as follows. According to Article 1, point 8 of the Criminal Code, a

judge is a state judicial official granted authority by law to adjudicate. As a state official, a judge also has a function which, according to Article 33 of Law Number 48 of 2009 concerning Judicial Power, is to maintain the independence of the judiciary. A judge must possess integrity and impeccable character, be honest, fair, professional, and experienced in the field of law.

The main duties of judges in the judicial field are:

1. To receive, examine, investigate cases, and resolve every case brought before them;
2. To adjudicate according to the law without discriminating against anyone (Article 4 paragraph (1));
3. To assist seekers of justice and make every effort to overcome all obstacles and barriers to achieve simple, speedy, and low-cost justice (Article 4 paragraph (2));
4. They must not refuse to hear and adjudicate a case on the grounds that the law does not exist or is unclear, but are required to examine and adjudicate it.

Article 1 point 1 of Law Number 48 of 2009 concerning Judicial Power stipulates that: Judicial Power is an independent power to administer justice in order to uphold the law and justice based on Pancasila, for the realization of a rule-of-law state in the Republic of Indonesia. Independent judicial power means judicial power that is free from interference by state authorities and free from coercion by any party, except in matters permitted by law. Judges are required to be precise and fair in making decisions, meaning they must not be influenced or receive interventions from any party.

Thus, it can be understood that in examining cases brought before them, a judge is free from the intervention of any party. In this case, the judge freely acquitted the Defendant, who was involved in the adulteration of 3 Kg LPG gas. The independence of such a decision depends on two things:

- a. Failing to meet the principles of evidence according to the Law in a negative sense: The evidence obtained during the trial is insufficient to prove the defendant's guilt, and simultaneously, the defendant's insufficiently proven guilt is not believed by the judge.
- b. Failing to meet the minimum standards of evidence: The alleged fault of the defendant is supported by only one piece of evidence, whereas according to the provisions of Article 183 of the Criminal Procedure Code, to sufficiently prove a defendant's guilt, it must be supported by at least two valid pieces of evidence.

Referring to the two principles regulated in Article 183 of the Criminal Procedure Code and in connection with Article 191 Paragraph (1) regarding acquittal, an acquittal is generally based on the assessment and opinion of the judge, namely that the charges against the defendant are entirely unproven, and all evidence submitted in court, whether in the form of witness testimony, expert testimony, documents, indications, or the defendant's statements, cannot prove the alleged wrongdoing.

The acquittal issued by the Panel of Judges in this case is based on the consideration that the charges in the first, second, and third alternative indictments of the Public Prosecutor, according to the facts presented in the trial, are not proven in their entirety. Therefore, based on this fact, the defendant must be acquitted of the charges from the Public Prosecutor and from all legal claims. Based on the testimony of the Witnesses and the statement of the Defendant, the Panel of Judges assessed that Witnesses Gustrayadi, S.H., and Fahriza Havinanda, S.H., who are police officers, conducted an investigation and found evidence of the transfer of

Liquefied Petroleum Gas (LPG) from 3 kg subsidized cylinders to 12 kg non-subsidized cylinders at Jl. Pertambangan/Harmonika Baru No. A1, Tanjung Sari Subdistrict, Medan Selayang District, Medan City, by securing several pieces of evidence as well as Andre Tamba alias Josmer and Martogi Manihut Tamba alias Togi, based on the statements of Andre Tamba alias Josmer and Martogi Manihut Tamba alias Togi, who are witnesses stating that the activity was carried out under the orders of the Defendant, Gustrayadi, S.H., and Fahriza Havinanda, S.H., proceeded with the arrest of the Defendant.

Since the panel of judges in rendering a verdict must base it on the fulfillment of the elements of the charges against the Defendant, if those elements are not met, the panel of judges must acquit the Defendant. An acquittal can occur if the evidence presented by the public prosecutor is considered insufficiently strong or does not meet the standards of proof in court.

## **CONCLUSION**

Legal certainty regarding the acquittal of perpetrators of LPG 3 Kg gas blending is determined by looking at the indicators of criminal sentencing against the involved perpetrators with reference to the evidence found and presented at trial, so that the panel of judges is convinced that the perpetrator can be declared legally proven to have committed the criminal act of subsidized LPG gas blending. This means that the defendant is legally considered not guilty, receives protection from further criminal prosecution for the same case, and the ruling is binding once it has permanent legal force. However, substantively, an acquittal can create legal uncertainty for the public, as it opens up opportunities for other perpetrators to carry out blending without fear, and undermines the sense of justice and legal protection certainty for consumers.

The judge's consideration regarding the acquittal of the perpetrator of LPG 3 Kg adulteration based on Decision No. 350/Pid.Sus/2022/PN.Mdn was made by the panel of judges based on the considerations in the first, second, and third alternative charges of the Public Prosecutor, which according to the facts in the trial were not proven in their entirety, so based on this, the defendant must be acquitted of the Public Prosecutor's charges and from all legal demands. Based on the legal facts in the trial, the panel of judges did not find any evidence that the activity was carried out on the orders of the defendant, and the shop-house used to conduct the activity did not prove that the shop-house belonged to the defendant. Therefore, based on this matter, the Panel of Judges believes that this element is not fulfilled according to the law. Since the judges in delivering a verdict must base it on the fulfillment of the elements of the article charged against the Defendant, if these elements are not fulfilled, the judges must issue an acquittal for the Defendant. An acquittal can occur if the evidence submitted by the public prosecutor is considered not strong enough or does not meet the standards of proof in court.

## **REFERENCES**

Agnes Asisi Marselle Devinta, G. Aryadi, Pertimbangan Hakim Menjatuhkan Putusan Bebas Dalam Perkara Pidana Korupsi, *Jurnal Hukum* Universitas Atma Jaya Yogyakarta, 2015.

Andi Hamzah, *Surat Dakwaan Dalam Hukum Acara Pidana*. Bandung: Alumni, 2016.

**International Journal of Economic, Technology and Social Sciences**

url: <https://jurnal.ceredindonesia.or.id/index.php/injects>

Volume 6 Number 2 page 262-269

Bambang Waluyo, *Penyelesaian Perkara Pidana Penerapan Keadilan Restoratif dan Transformatif*, Jakarta: Sinar Grafika, 2016.

ElissaVikalista, *Implementasi Kebijakan Konversi Minyak Tanah ke LPG di Banjarmasin*. Jurnal Politik dan Pemerintahan Lokal, Vol 1, Edisi 2, 2012.

M.Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHAP*, Sinar Grafika, Jakarta. 2010.

Nanda Agung Dewantara, *Masalah Kebebasan Hakim Dalam Menangani Suatu Perkara Pidana*, Jakarta: Aksara Persada Indonesia, 2010.

Saskia Falika Khaulah, Deny Guntara, Muhamad Abas, Tinjauan Yuridis Terhadap Tindak Pidana Pengoplosan Gas Lpg Subsidi Di Kabupaten Karawang, *Jurnal Hukum Tora*: 11 (2) 2025.