

Efforts to Handle Cases of Illegal Distribution of Tobacco Products by Gorontalo Customs and Excise Officials

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Abstract. This research aims to find out and analyze how law enforcement efforts are carried out in cases of distribution of illegal tobacco products by Gorontalo Customs and Excise officials. This research is classified as empirical research using a qualitative approach and then using data collection techniques by means of interviews, literature review, documentation, and using descriptive data analysis. The results of this research indicate that law enforcement efforts against the distribution of illegal tobacco products by Gorontalo Customs and Excise officials include preventive law enforcement (prevention) and repressive law enforcement (Action). In preventive law enforcement Customs and Excise officials carry out legal socialization activities, routine patrol activities and carry out observations, to enforce repressive laws from Customs and Excise officials when they receive information from the intelligence unit or complaints from the public, the data received is then analyzed. If the results of the analysis show that the data meets operational standards then the process of action, deterrence, inspection, sealing and confiscation is continued. Customs and Excise officials in carrying out law enforcement have not yet reached the realm of court, only the imposition of administrative sanctions.

Keywords : Customs and Excise Officials; Illegal Tobacco Products; Law enforcement

1. INTRODUCTION

Customs and excise matters are handled by a directorate (agency) which is part of a department or ministry. The customs directorate is under the ministry of finance. So, this institution has the authority to regulate the flow of goods in and out of the region.

The Gorontalo C Customs Middle Type Customs Office handles enforcement of excisable goods such as drugs, liquor and tobacco products. Tobacco products that are widely circulated among the public are cigarettes which are packaged for retail sale but are not attached with excise stamps or what are usually called plain cigarettes which are categorized as illegal cigarettes. Illegal cigarettes are cigarettes circulating in Indonesia whose manufacture and distribution do not comply with statutory provisions. Most of the criminal cases involving the distribution of illegal tobacco products involve illegal cigarettes whose producers are on the island of Java, especially Madura and Malang because cigarettes are a tobacco product that is very popular with the Indonesian people.

The excisable goods made from tobacco that are found will then be followed up by a team of investigators from the Gorontalo Customs and Excise Directorate. This is what is called law enforcement regarding the distribution of illegal tobacco products. According to article 3 paragraph 1 of Regulation of the Director General of Customs and Excise no. P- 53 /BC/2010 concerning supervision procedures which are the reference for the Directorate General of Gorontalo Customs. The law enforcement process in the Gorontalo customs directorate is

divided into several units, namely the intelligence unit, enforcement and investigation unit and others. Customs and Excise Office Type Madya Customs C Gorontalo intelligence unit under the enforcement and investigation section. The intelligence unit has a function in information management including collection, assessment, analysis, distribution and evaluation of data or information, while the enforcement and investigation unit has a function in carrying out physical administrative efforts including stopping, checking, deterring, prosecuting, sealing, investigating, handling goods. results of prosecution and evidence, issuance of recommendations for the imposition of administrative sanctions, and other activities.

The following is data provided by the Directorate General of Customs and Excise (DJBC) in Gorontalo Province regarding the number of actions received for the circulation of illegal tobacco products received from 2019 to 2023.

Table 1. 1Number of actions taken against the distribution of illegal tobacco products from 2019-2023 received by DJBC.

Tahun	Jumlah Penindakan	Kasus
2019	6	Peredaran Hasil Tembakau Ilegal
2020	6	Peredaran Hasil Tembakau Ilegal
2021	27	Peredaran Hasil Tembakau Ilegal
2022	29	Peredaran Hasil Tembakau Ilegal
2023	44	Peredaran Hasil Tembakau Ilegal

Source: DJBC, 2023

It can be seen in the table above that every year there is an increase in cases of distribution of illegal tobacco products received by DJBC. In 2019 and 2020, action was taken with the same number of cases, namely 6 cases of distribution of illegal tobacco products, in 2021 action was carried out in 27 cases of distribution of illegal tobacco products, in 2022 action was carried out in 29 cases of distribution of illegal tobacco products, and in 2023 Action was taken against 44 cases of the distribution of illegal tobacco products, which continue to exist every year in Gorontalo Province.

It can be seen that between 2020 and 2023 there will be a very drastic increase in cases of distribution of illegal tobacco products due to several factors, one of which is the increase in excise rates every year which results in people committing violations. In fact, in the law enforcement process, case examinations of suspects are carried out at the Ministry of Finance office in the area due to the limitations of the Gorontalo Customs and Excise regional office. Furthermore, from the results of the researcher's interview with the Counseling and Information Services section of the Customs and Excise Supervision and Services Office (KPPBC) Madya

Customs Type C Gorontalo, it was explained that in the case of the distribution of illegal tobacco products, no one had reached the judicial process. According to researchers, law enforcement at the Gorontalo customs office is not yet optimal, this is caused by several factors that exist in every law enforcement process at the Gorontalo customs office.

Based on the background above. Due to a number of obstacles, law enforcement at the Gorontalo Customs and Excise office is currently not optimal. As explained previously. This opens up space for those who distribute tobacco products illegally, especially in the Gorontalo area. Gorontalo customs officials are obliged to investigate various cases of the distribution of illegal tobacco products that are traded without excise stamps or using fake excise stamps, causing losses to the state. This is what causes the criminal act of distributing illegal tobacco products to continue to circulate and develop in the Gorontalo area. Therefore researchers are interested in researching " Law Enforcement Efforts Against Cases of Distribution of Illegal Tobacco Products by Gorontalo Customs and Excise Officials ".

Formulation of the problem .

Related to the brief overview in this introduction. So the problem in this research is how to enforce the law against cases of distribution of illegal tobacco products by Gorontalo Customs and Excise officials.

2. RESEARCH METHODS

The type of research in this research is experimental, which can also be called field research, which analyzes the legal arrangements in question and what is actually happening in the eyes of the public. This means, in other words, research carried out on actual conditions or real conditions that occur in society with the aim of obtaining the necessary facts and data. Once the necessary data is collected, the problem is identified, which ultimately leads to problem solving. This research uses qualitative methods, namely a type of descriptive research that usually uses analysis. Qualitative research emphasizes process and meaning, and the theoretical basis serves as a guide to ensure that the research focus is in line with the facts in the field . This research uses a descriptive analysis method. "Descriptive analysis is research that guides researchers to explore and photograph the situation to be examined thoroughly, broadly and in depth."

3. DISCUSSION

Law Enforcement Efforts Against Cases of Distribution of Illegal Tobacco Products by Gorontalo Customs and Excise Officials

The case of the distribution of illegal tobacco products is one of the criminal cases that has colored legal events in Indonesia because the tobacco products that are mostly traded are cigarettes and tobacco leaves. These two types of products have very high economic value and are a source of foreign exchange and the main source of state revenue from the excise sector, as well as being a source of employment for the community (agricultural businesses and the cigarette processing industry). It was recorded that the value of Tobacco Products Excise (CHT) revenue continued to increase from year to year in 2014 by IDR 139.12 trillion to IDR 218.62 trillion in 2022. The increase in CHT was mainly influenced by the CHT rate adjustment policy which also continued increased.

In Gorontalo Province, cases of circulation of illegal tobacco products occur very often, based on data provided by the Directorate General of Customs and Excise (DJBC) Gorontalo Province. Every year there is an increase in cases of circulation of illegal tobacco products which are handled by the Directorate of Enforcement and Investigation of Customs and Excise Type C, Gorontalo Customs. .

Based on data from cases of distribution of illegal tobacco products received by the Directorate General of Customs and Excise, there was a spike in cases of circulation of illegal tobacco products from 2020 to 2023 due to several factors, namely:

1. Increase in excise rates every year
2. Factors such as public demand, the large number of users of illegal tobacco products, in this case the newly emerged illegal cigarettes, and
3. There are many online sales of illegal tobacco products that are easy to reach, such as Shopee, Lazada, Tiktokshop and other online shops.

According to researchers' analysis, by increasing excise rates every year with the aim of increasing state revenue, this can also cause violations in the field of excise and customs. The forms of violations against illegal tobacco products include:

1. Circulation without excise stamps attached (plain)
2. Attaching fake excise stamps.
3. Attachment of used excise stamps
4. The attachment of excise stamps is not in accordance with its intended purpose .
5. Wrong personalization, each company has codes that cannot be exchanged.

Based on the results of the researcher's interview with Mr. Budi Harjana as a member of the Directorate of Enforcement and Investigation of Gorontalo Type C Customs and Excise, who discussed law enforcement at Gorontalo Customs and Excise, the researcher concluded that the Customs and Excise Supervision and Service Office of Type C, Gorontalo Customs and Excise officers carried out Law enforcement in cases of distribution of illegal tobacco products, namely by preventive law enforcement (Prevention) and repressive law enforcement (Action). In accordance with the Regulation of the Director General of Customs and Excise Number P-53/BC/2010 concerning Supervision Procedures in Article 20, enforcement activities up to Article 64 determining the results of enforcement are regulated in relation to repressive law enforcement processes (Actions).

Law Number 39 of 2007 concerning excise contains criminal sanctions and administrative sanctions in the Article which regulates criminal sanctions for excise crimes regulated in Articles 50 to Article 58A in the form of imprisonment and fines. Meanwhile, regulations regarding administrative sanctions are regulated in Articles 7A to 39 in the form of permits for Excisable Goods Entrepreneur Identification Numbers being frozen/revoked and administrative sanctions in the form of fines. So if an individual commits an act that is prohibited in these regulations, then criminal sanctions can be threatened against him.

Preventive Law Enforcement

Based on the results of the researcher's interview with Mr. Budi Harjana as a member of the Gorontalo Customs C Intermediate Type C Enforcement and Investigation Directorate, preventive law enforcement efforts carried out by Gorontalo Customs and Excise are as follows:

1. Carrying out legal outreach

Customs' efforts in enforcing the law in cases of distribution of illegal tobacco products are by conducting legal outreach to the public and traders regarding customs and excise regulations regarding the prohibition on buying and selling excisable goods, in this case illegal tobacco products, because if you violate this prohibition you can be subject to administrative or criminal sanctions. Every time you carry out socialization, you will be accompanied by a Gorontalo Customs and Excise Public Relations Number. If there are stalls selling illegal tobacco products, you can report them directly to this Public Relations Number.

2. Carrying out routine patrol activities

Patrols are carried out based on general information in the context of prevention in the form of sea and land patrols. Based on the results of the researcher's interview with Mr. Budi Harjana as a member of the investigation of the Directorate of Customs and Excise

Enforcement and Investigation of the Gorontalo Customs Type C Middle Type, he said that the routine patrol activities carried out by the Gorontalo Customs and Excise Supervision and Services Office of the Middle Type Customs C Gorontalo are routine land patrol activities considering the limitations personnel, facilities and infrastructure mean that Customs and Excise officers only carry out patrols around the Gorontalo customs area, especially at stalls and cargo services.

3. Carrying out Observations

Carrying out continuous observations is also part of the law enforcement process by Gorontalo Customs and Excise officials as well as eradicating cases of the circulation of illegal tobacco products. This task is carried out by the intelligence unit using the *Cyber Crawling method*, which is a process of finding out a collection of pages on a web for indexing. *Cyber Crawling* was carried out because efforts were needed to collect information from social media regarding the trade in illegal tobacco products which would be followed up with eradication activities by Gorontalo Customs and Excise.

Repressive Law Enforcement

From the results of the researcher's interview with Mr Budi Harjana as a member of the investigation of the Directorate of Customs and Excise Enforcement and Excise Type C Gorontalo Customs. That repressive law enforcement is carried out when receiving information from intelligence units, complaints from the public, and so on. After getting this information, the data received is then analyzed. If the analysis results show that the data meets operational standards, enforcement action will be continued. After receiving the information, deterrence is then carried out to prove that this item violates the provisions of the excise law. After the deterrence is carried out, a letter of proof of action (SBP) will be made and an investigative team will be formed to carry out the action. Action is carried out after fulfilling several criteria, including the location of the violation and additional criteria such as the availability of personnel, operational facilities, and the complexity of the action.

After the action has been taken, an inspection will be carried out witnessed directly by the violator and an inspection report (BAP) will be made. If the goods that are stopped are proven to violate the provisions of the excise law, they will be sealed. After being sealed, the goods resulting from the action will then be determined to become evidence and confiscation will be carried out. This evidence must absolutely not be circulated in the Gorontalo area and cannot be included in accordance with the provisions of the law. excise tax and declared state property, the goods must be destroyed. Then there is a schedule for excisable goods that will be destroyed each year, submitted with the documents and goods to be destroyed.

However, it is clear that the perpetrator violated the excise law and can be subject to sanctions according to applicable law. However, considering several obstacles and reasons presented by Customs and Excise officials, this is also part of the fact that enforcing criminal sanctions in the Excise Law becomes difficult and also Customs and Excise officials refer to the provisions of Law Number 7 of 2021 concerning Harmonization of Tax Regulations/Restorative Justice and Regulation of the Minister of Finance of the Republic of Indonesia Number 237 of 2022 concerning Research on Alleged Violations in the Excise Sector, which will come into effect in 2023, where not all criminal provisions that cause material loss to a country must be punished, so there are countries that replace criminal penalties. that's with an administrative fine of 3x the excise value. So violators prefer to be willing to pay administrative fines.

Law enforcement against perpetrators of criminal acts of distribution of illegal tobacco products are basically subject to two types of criminal sanctions, payment of fines and imprisonment. However, in the majority of cases of distribution of illegal tobacco products at the Gorontalo Customs and Excise Type C Middle Type Supervision and Service Office, the perpetrators are generally only be subject to administrative fines as compensation for the money collected from import and export duties. This is due to the provisions of Article 7 of Law Number 55 of 1996 concerning Investigation of Criminal Acts in the Customs Sector, which allows the Attorney General to stop investigations into criminal acts in the Customs and Excise sector at the request of the Minister of Finance in the interests of state revenue.

In criminal law, there is no such thing as "peace". All incoming cases must be resolved legally by submitting them to court through an investigation and prosecution process. Once the case goes to court, there is no reason to stop it except for sufficient factual and juridical reasons.

Based on researchers' analysis, law enforcement carried out by Gorontalo Customs and Excise is still controlling in nature and aims to reduce the circulation of illegal tobacco products because so far no perpetrators of excise crimes have been prosecuted until they are investigated in court.

If you only use administrative sanctions, existing law enforcement will not be effective in preventing the circulation of illegal tobacco products. This can be seen in the data that researchers have included from year to year, in fact cases of distribution of illegal tobacco products are increasing and do not show a decrease in cases even though if the Customs and Excise officers really implement law enforcement as they should, even though law enforcement is strictly repressively, there are administrative sanctions and then the violators pay fines, this does not have a deterrent effect, it can be proven by the data that every year there is an increase

in cases of distribution of illegal tobacco products. Therefore, it is necessary to apply criminal sanctions to provide a deterrent effect because if only administrative sanctions are imposed, this has been proven by the increasing number of cases.

The application of law by Customs and Excise officials to this case includes criminal sanctions as regulated in Law Number 39 of 2007 concerning Excise Articles 54 and 56 where the criminal sanctions are in the form of imprisonment for a minimum of 1 (one) year and a maximum of 5 (five) years. , but these sanctions were not implemented. According to researchers, looking at the condition of cases which continue to increase from year to year, even though Customs and Excise officials have enforced the law as they should, the weakness is the provision of sanctions which only take the form of administrative sanctions. This needs to be a common concern and needs to be followed up firmly. This can be done by implementing criminal sanctions against perpetrators of illegal tobacco product dealers so that law enforcement at the Customs and Excise Supervision and Services office is more stable and can suppress existing cases from year to year from increasing.

4. CLOSING

Conclusion

Law enforcement efforts to eradicate criminal cases of distribution of illegal tobacco products by Gorontalo Customs and Excise officers take the form of preventive law enforcement (prevention) and repressive law enforcement (action). Repressive law enforcement The Gorontalo Customs C Middle Type C Action and Investigation Directorate carries out legal outreach, carries out routine patrol activities, and carries out observations while repressive law enforcement The Gorontalo Customs C Middle Type C Action and Investigation Directorate carries out law enforcement from the entry of information about suspected violations from intelligence units, the public, etc., then enter into action efforts such as deterrence, inspection, arrest, confiscation and destruction. If there are perpetrators, they will be subject to administrative sanctions.

Suggestion.

The Directorate General of Customs and Excise, Middle Type Customs C, Gorontalo, should socialize the regulations governing the criminal act of distributing illegal tobacco products to the public and provide strict sanctions by referring to the provisions of the excise law to be able to establish criminal witnesses in the field of excise against perpetrators who violate the circulation of tobacco products. illegal in the criminal justice system .

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