

The Responsibility of Compesation Charge in Environmental Pollution for Consolidated Actor Companies

Syahriati Fakhriah¹, Dea Justicia Ardha², Febrina Hertika Rani³

Universitas Muhammdiyah Palembang, Indonesia

Email: deajusticia14@gmail.com

Keywords:
Compensation;
Environmental
Pollution;
Responsibility.

Abstract: *The rise of pollution and environmental destruction due to human actions in the environment utilizing and even intentionally polluting or destroying the environment in people's lives. When a default occurs, companies as legal subjects are responsible for paying costs and interest in addition to compensation. They are also responsible for paying compensation if they conduct an illegal act.. The issue in this research How The Responsibility Of Compesation Charge In Environmental Pollution For Consolidated Actor Companies. The purpose of this study is to find out the form of responsibility of Compesation Charge in Environmental Pollution for Consolidated Actor Companies. The method used is Normative. The author's consideration of this issue leads to the conclusion that the special provisions of Article 122 of Law Number 40 of 2007 addressing Limited Liability Companies supersede the provisions of Article 87 paragraph (2), which are now general provisions. Therefore, Lex specialis derogat legi generali—the rule that special provisions take precedence over general laws—applies in this situation. As a result, the provisions of Article 122 of Law Number 40 of 2007 regarding Limited Liability Companies supersede those of Article 87 paragraph (2) of Law Number 32 of 2009 regarding Environmental Protection and Management.*

DOI:
10.19109/nurani.v%vi
%i.14175

Introduction

The environment is an area that has become a center of attention lately, especially about destruction or pollution done by companies. By hosting the Stockholm Declaration or the United Nations Conference on the Human Environment in Stockholm, Sweden, in 1972, Indonesia more or less acknowledged the environment throughout the 1970s, a decade highlighted by a global movement emphasizing the importance of the environment. (Akib, 2008). The rise of pollution and environmental destruction due to human actions in the environment utilizing and even intentionally polluting or destroying the environment in people's lives.

The environment has an important meaning in human life because the environment is a place where humans carry out all the activities of their daily life. Besides that, the environment is a source of priceless natural wealth owned by a country. Environmental change and damage happening today is more due to behavior of human behavior to the pursuit of status socio-economic (Sigarlaki, 2015).

The environment is all conditions and objects including humans and their actions or attitudes that are contained in a space where humans and living bodies are interconnected and dependent on each other (Abdurrahman, 2009). The Perpetrators of environment destruction or pollution will be punished by the sanctions as stipulated in Law Number 32 of 2009 regarding about Environmental Protection and Management. The perpetrators of environmental destruction or pollution that it means are the legal subjects, namely: *Natuurlijke Person* (Person); and *Rechtsperson* (Legal entity) (Lestari, 2017; Sulaeman et al., 2018).

Companies as legal subjects have a civil responsibilities such as the obligation to pay compensation for costs and interest when a default happened and the obligation to pay compensation if they commit an unlawful act (Yulius, 2013). This is regulated in the Civil Code Article 1239 and Article 1365 regarding about compensation based on unlawful acts. There is a requirement in terms of unlawful acts in the scope of environmental destruction or pollution. From the provisions of this article, it is understood that any subject who makes a transfer, that means transferring the authority of control, or changing the nature and form of a business entity, means that the person concerned changes the nature of the activity or the scope of activity, as well as the form of business entity from business entity that committed an unlawful act. This means that the business entity that is transferred or whose scope of activity or form has been changed has committed an unlawful act that damages or pollutes the environment and cannot escape from the legal responsibilities or the obligations of the perpetrator (the company that has been changed) (Adjie, 2008). From the point of consolidation or takeover view, according to company law, if this happens, their responsibilities will also change.

Law enforcement must be carried out firmly, because the law itself must regulate order which can be realized if there is a definite law. Law can be realized from the Act or legislation. These regulations must be firm, clear, and not multiple interpretations. But Law Number 32 of 2009, which deals with environmental protection and management, specifically with Law Number 40 of 2007 dealing with limited liability companies, does not follow or is in conflict with other laws. This relates to the obligation to transfer, transfer responsibility in the event of a merger, consolidation, acquisition, and separation.

Thus, the authors are interested in conducting research on corporate responsibility for environmental damage. The problem in this study is how is the responsibility for compensation costs in environmental pollution for consolidating companies. The purpose of this study is to examine the form of responsibility for the collection of Environmental Pollution Compensation for the Consolidating Companies.

Research Method

The doctrinal-nomological technique, which is based on the doctrinal rules that regulate conduct, was utilized to acquire the data required for this research. Because it discusses the idea of law as a rule, normative analysis is the study methodology used. The collected research materials—both primary and secondary materials—are processed, qualified, and systematically connected to arrive at a conclusion that addresses the question of The Responsibility of Compensation Charge in Environmental Pollution for Consolidated Actor Companies. Inductive reasoning, or the act of obtaining general conclusions, is the technique used to draw conclusions in this study.

Discussion and Results

Overview of Environmental Damage and Pollution

The environment is a gift from God Almighty that must be preserved if it is to continue giving the Indonesian people a source of life. The Republic of Indonesia's 1945 Constitution declares that everyone in Indonesia has a constitutional and human right to a safe and healthy living environment. Everyone has the right to "have a prosperous life born and psychologically, to survive, to have a pleasant and healthy living environment, and the right to obtain health services," as stated in Article 28H paragraph (1) of the Republic of Indonesia's 1945 constitution. Therefore, in order to achieve sustainable growth, the state, government, and other stakeholders must manage and safeguard the environment (Listiyani et al., 2018).

Pollution and environmental damage are no longer just local issues; they are increasingly national and even global issues. Because of improvements in industrial technology, the degree of pollution and destruction is also significantly higher. Therefore, in order to combat the increasingly serious environmental damage, additional factors that contribute to the creation of a good environment must be present. These include education, legal awareness, technology, and, equally important, enough funding for projects that prevent pollution and environmental damage, as well as initiatives to enhance the quality and beauty of the environment (Ma'ruf, 2019).

Environmental degradation is defined as an action that results in direct or indirect alterations to the environment's physical and/or biological aspects that hinder the environment from supporting sustainable development, as per Law Number 23 of 2009, which replaced Law No. Mor 23 of 1997. According to Law No. 23 of 2009's Article 1 Paragraph (16), environmental destruction refers to human acts that alter the physical, chemical, and/or biological aspects of the environment in ways that go beyond what is typically considered to be environmental damage. Munadjat Danusaputro claims that pollution and environmental damage result in numerous losses and negative effects (Ma'ruf, 2019).

In the meanwhile, Abdurrahman explains that environmental contamination can be classified as either chronic, where the harm develops gradually; Accidents frequently result in surprise or acute, abrupt, and severe harm; Dangerous, with significant biological losses in the absence of

radioactivity, genetic damage; and Catastrophe, where numerous living things perish and perhaps go extinct.

The worsening environmental conditions have become a sharp highlight of many circles. Natural resources and environmental management that is not carried out in accordance with their carrying capacity can cause food, water, energy and environmental crises. Under general, it can be claimed that Indonesia's natural resources and environmental elements are practically all in decline. The numerous environmental alterations and pollutants are evidence of this.

Law No. 32 of 2009 governs the environmental sector. Environmental damage is described as a direct or indirect disturbance of the physical, chemical, or biological aspects of the environment that exceeds the accepted standards for such damage in Article 1 Number (17) of Law Number 32 of 2009. According to Article 1 Point 7 of Law Number 4 of 1982, pollution is defined as the introduction or inclusion of living things, substances, energy, and/or other components into the environment, as well as changes to the natural order of the environment that cause the environment's quality to decline or cause it to stop functioning as intended (Evita & Rachmawati Nur Ariyanti, 2018).

According to Article 4 of Law Number 32 of 2009 concerning Environmental Protection and Management, environmental protection and management also include planning, utilization, control, maintenance, supervision, and law enforcement. Articles 5 through 11 deal with environmental management and protection during the planning stage. As stated in Article 5 of Law Number 32 of 2009 concerning Environmental Protection and Management, there are three stages that must be completed in order to plan for environmental protection and management. These stages are environmental inventory, identifying ecoregion areas, and preparing RPPLH. However, the Utilization Stage based on RPPLH has been defined in Article 12 of Law No. 32 of 2009 about the Protection and Management of the Environment. Unlike the control stage in Article 13, this stage is carried out in the context of maintaining environmental functions, such as prevention, countermeasures, and recovery. It is carried out by the government, regional governments, and people in charge of businesses and/or activities in accordance with their respective authorities, roles, and responsibilities. Three actions—conservation of natural resources, reserve of natural resources, and/or protection of atmospheric functions—are taken during the environmental maintenance stage. Article 57 of Law Number 32 of 2009 Concerning Environmental Protection and Management regulates this. Environmental quality standards, permits for waste disposal, environmental impact analyses, and environmental audits are crucial pollution control tools. (Nugraha et al., 2021).

The Responsibility Of Compensation Charge In Environmental Pollution For Consolidated Actor Companies

The definition of "liability" or "responsibility" in Black's Law Dictionary covers An obligation to execute an act that one is required to do by law or justice; the condition of being accountable for a potential or real loss;

and the condition imposing an immediate or future need to undertake an act (Chief, 2000).

What about accountability to the law. Legal liability is defined as "liability which court recognizes and enforces as between parties litigant" in Black's Law Dictionary. Therefore, among the litigants, legal responsibility is a duty that the courts recognize and uphold. These presumptions lead to the conclusion that, in the event of an agreement as defined in Book III of the Civil Code, responsibility under civil law exists. Experts in civil law generally contend that Article 1233 of the Civil Code's formulation of the source of an agreement's existence is deficient because, in addition to that, doctrine, unwritten law, and court rulings are nonetheless acknowledged to exist (Badruzalman, 2001).

The first step in the process of safeguarding and managing the environment, which is carried out by the community or the state in order to be able to preserve environmental functions and prevent pollution or environmental damage, is the process of planning, use, control, maintenance, supervision, and law enforcement. (Helmi, 2012). In order to achieve environmental sustainability and the welfare of a nation, environmental protection and management is an effort made by the community to interact with the environment (Jamaluddin et al., 2020). The Republic of Indonesia's 1945 Constitution's Article 28 H governs legal requirements that promote a safe and healthy existence and has legal ramifications that ensure the state always provides environmental quality in accordance with those fundamental ideals. According to Article 33 of the 1945 Constitution, "Earth Water, and the natural resources contained therein, are held by the state and exploited for the greatest prosperity of the people," meaning that everyone in Indonesia must consent to the exploitation of natural resources. (Wijoyo, 2013).

Resource development efforts and environmental degradation have been severely hampered by a lack of understanding of environmental law, a sustainable environment supported by law enforcement, and a weak economic base. This is due to the extreme environmental contamination, which makes it impossible to uphold the laws protecting the environment and living creatures. Since everyone has a right to a healthy environment, pollution and environmental harm inherently conflict with other people's rights. As a result of environmental harm brought on by human activity, disputes between legal subjects, whether they be persons or businesses, are referred to as environmental disputes.

Every legal subject who pollutes and/or destroys the environment must be responsible. One form of responsibility in the environmental field can be a compensation. In determining the subject and form of responsibility for unlawful acts, there is a legal basis that regulates it. There are two legal subjects, namely *Natuurlijke Personen* (Persons) and *Rechtspersons* (Legal Entities). Responsibility in environmental law consists of several forms regulated in the provisions of Law Number 32 of 2009 regarding about Environmental Protection and Management, one of them is formulated in Article 88 about Absolute Responsibility "Everyone whose actions, efforts, and/or its activities use B3, generate and/or manage B3 waste; and/or those that pose a serious threat to the environment are absolutely responsible for

the losses that occur without the need to prove the element of guilt.”) As discussed in the previous chapter that in Civil Law environmental responsibility is known as environmental responsibility or other terms *Milieu aansprakelijkheid*, environmental liability which means that a person or civil legal entity is obliged to be responsible for paying compensation or taking certain actions as a result of their actions and losses, either individually or collectively. Therefore, the concept of environmental responsibility is always associated with the burden of proof (Akib, 2008).

From the juridical perspective, environmental pollution and destruction have been qualified as environmental disputes. That is, pollution and destruction of the environment determines the degree of escalation and the presence of environmental disputes. Law Number 23 of 1997 which was later refined by Law Number 32 of 2009 formulates "Environmental disputes as disputes between two or more parties arising from activities that have the potential and/or have an impact on the environment".

According to this point of view, environmental disputes are a "species" of "genera" of disputes that also include environmental conflicts or controversies, which are described as "dispute a conflict or controversy; a conflict of claims or rights; an assertion of a right, claim, or demand on one side, met by contrary claims or allegations on the other." (Black, 1991). Both parties are facing one another when there is a quarrel or dispute. Therefore, the two previously mentioned considerations are "cumulative" factors in the development of disagreements. In other words, if one party interferes with the interests of the other without making demands, it is assumed that there has never been a disagreement.

Environmental law problems can be seen from a variety of legal perspectives, including civil environmental law, administrative environmental law, and criminal environmental law, it has been noted. It was previously stated that claims for compensation under Article 87 of the UUPPLH, where the following bases exist a claim for compensation: the existence of unlawful acts; the presence of environmental pollution and or destruction; the presence of harm to other people or the environment, are particularly related to the application of civil law's substantive principles to disputes involving environmental law. As previously noted, claims for damages may be made in court, through litigation, outside of court, or without litigation. The four fundamental components of the aforementioned damage claim can be further stated as follows:

The existence of unlawful acts

Although UUPPLH does not stipulate what constitutes an unlawful act, this does not negate the need for one. According to lawmakers, a tort in this context refers to an illegal act as defined in Article 1365 of the Civil Code and includes all of its components, as Hoge Raad determined on January 31, 1919, in the *Linden Baum v. Cohen* case, also known as the *Drukkers Arrest*. that is, the act is against the law, against the rights of others, against decency, against the perpetrator's legal responsibilities, and against society's expectations of obedience.

The specificity of the elements of unlawful acts in this context related to the environmental field of action comprises, among other things: the presence of environmental pollution acts; the presence of pollution coupled with environmental destruction; the presence of environmental devastation.

The existence of harm caused to others and the environment

As underlined in Article 1365 of the Criminal Code, it should be acknowledged that the unique characteristics of losses resulting from environmental issues affect not only individuals or legal organizations but also society as a whole because, once the environment is destroyed, the community cannot use it. This later served as the foundation and justification for environmental legislation, giving environmental organizations the right to pursue compensation.

From the perspective of civil law, the element of compensation actually establishes the offender's responsibility to make restitution. The Civil Code's Article 1371 paragraph (2), which states that "Also this indemnification is valued according to the position and abilities of both parties and according to the circumstances," offers some direction even though there is no further arrangement for the indemnity. "In evaluating one or the other, the Magistrate shall take regard to the degree of the contempt, as well as the rank, position, and capacity of both parties, and to the circumstances," subsection (2) expressly states.

The existence of insurable parties

The parties that may be obliged to compensate for losses under Article 1365 of the Civil Code are individuals who, due to their fault, have suffered losses, as has been noted. This is very clearly stated in UUPPLH Article 87, Paragraph 1, which states that "every person responsible for a business and/or activity that commits unlawful acts in the form of pollution and/or destruction of the environment that causes losses to other people or the environment, is obliged to pay compensation and/or take certain actions." As a result, it is clear from the language of Article 87's first paragraph that "any person responsible for a business or activity that carries out a "violation of the law" is the insured to compensate

It is interesting to point out, it turns out that in some cases of environmental pollution in Indonesia, many parties are involved, either directly or indirectly, therefore it is necessary to emphasize the position of the person in charge of the business, because there are cases that are carried out indeed by the company, and here there is a person in charge, but what if it is done individually.

Form of liability

Although it has been declared in Article 87 paragraph (1) of the UUPPLH that the defendant "... shall pay compensation and/or conduct specific acts," strictly speaking, Article 1365 of the Civil Code has stated that the form of obligation is "compensation." So, it can be said that this kind of obligation is the end consequence of an accountability process in the legal system for environmental disputes. The type of indemnification in

environmental law is interesting since it is stated in Article 87 paragraph (3) of the UUUPPLH that "The court may determine the payment of compelled money against any day delay in the implementation of the court ruling."

The existence of a causal relationship

In the instance of environmental pollution, the cause-and-effect relationship between the actions taken and the damages incurred must be made clear. This connection may be found in UUPPLH, where the wording of Article 87 paragraph (1) has a clear statement like "...harming others or the environment." The effect of "causing harm to others,..." has actually made the affirmation of this sentence quite evident. It is already clear that there is a connection between the actions taken. Consequently, it can be determined that the causes of the consequences, in the form of losses to others and harm to the environment, are the consequences themselves, and that, in light of Article 1365 of the Civil Code, the element of error constitutes the causes of the consequences. Two causal theories—the condition sine qua non theory from Von Buri and the adequate veroorzaking theory from Von Kries—can be used to explain this cause and effect.

The condition sine qua non teaching's central tenet is that every circumstance that precludes the occurrence of an effect also precludes its occurrence. Von Buri contends that errors can be made by all parties and lead to losses. According to adequate veroorzaking theory, acts must be weighed against their effects in order to be taken into account as causes and effects. The premise for determining "balanced action" is a proper calculation, or the estimation of the action's potential effects based on common sense.

Environmental management is closely related to the company (corporation). This is because most of the environmental management is carried out by corporations. This is because corporations or business entities or legal entities in carrying out their business activities or production processes are always in direct contact with the environment. Environmental management by corporations, it is possible for corporations in carrying out their business activities to cause environmental pollution or damage. Therefore, it is necessary to carry out law enforcement (*law enforcement*) against corporations that cause damage to the environment related to the authority possessed by corporations in managing the environment (Jamaluddin et al., 2020).

The Law on Corporate Liability through Compensation for environmental Protection and Management's Article 87 paragraph (1), which reads in part: "Every person in charge of a business or activity who commits an unlawful act in the form of environmental pollution and/or destruction that harms other people or the environment is obliged to pay compensation and/or. The provisions in this paragraph are the realization of a principle that exists in the environment called the polluter pays principle. The judge can compel environmental pollutants and/or destroyers to perform certain tasks in addition to being obliged to pay damages, such as: 1) installing or repairing a waste treatment unit so that the waste meets the needed environmental quality requirements; 2) restoring environmental functions. (Jamaluddin et al., 2020).

The ability to sue the federal government and municipal governments is governed by Article 90 paragraph (1) of the PPLH Law, which is alluded to in Article 87 paragraph (1). The provisions of this article stress that governmental organizations and regional governments in charge of the environment are permitted to bring legal claims for damages and take specific legal actions against companies and/or activities that harm the environment or cause it to be polluted. The Law on Environmental Protection and Management's Article 90, paragraph (1), is explained in detail, defining "environmental losses" as losses resulting from pollution and/or environmental harm that are not protected by private property rights. In order to guarantee that there won't be any further adverse effects on the environment, certain efforts are taken to stop pollution, mitigate damage, and restore environmental functions. The process for making a claim for damages is not further governed by the laws and regulations listed in Article 87(1) of the PPLH Law. He may make use of the guidelines in Article 1365 of the Civil Code about the process for making a damage claim. The following criteria must be satisfied before a civil lawsuit can be filed: the act must be illegal; the offender must be guilty; there must be a loss; and there must be a causal link between the loss and the action.

Regarding the enforcement of environmental criminal law, and taking into consideration the substance of Article 87 paragraph (1) of the PPLH Law and Article 1365 of the Civil Code, the criminal acts governed by the PPLH Law's criminal provisions that are subject to compensation claims are committing the crimes listed in Articles 98 and 99 of the PPLH Law. Articles 98 and 99 of the PPLH Law are material offences that must result in pollution or other environmental harm before they may be adjudicated as having occurred. Regarding other criminal offenses that are prohibited by Articles 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 113, 114, and 115 of the PPLH Law, the dumping of the waste results in environmental pollution as defined in Article 98 of the PPLH Law or commits environmental crimes by burning land (Article 108 of the PPLH Law), neither of which are eligible for compensation. (Syahrani, 2011).

In light of the aforementioned clauses, the federal government and local governments have the authority to bring legal actions and file claims for specific damages against businesses and/or individuals who harm the environment and cause environmental losses that are not covered by private property rights. This means that the person in charge of the business or activity must pay the affected private owner before the government or local government can seek compensation for an environment that is protected by private property rights. Additionally, if a private owner is in charge of a business or activity that pollutes the environment or causes environmental damage, that person is required to take specific steps, including pollution prevention, damage control, and environmental function restoration, to ensure that there will be no unfavorable effects or repetition. to the surroundings. If the person in charge is unable to do specific tasks, the person in charge may delegate them to a third party or the federal, state, or municipal governments; nonetheless, the person in charge is responsible for any associated costs.

A corporation, according to AZ Abidin in Muladi and Dwijdja Priyatno, is "a group of people who have been given the authority to act as a legal unit and are subject to private law for certain reasons. A business entity or corporation, according to Subekti and Tjitrosudibio, is a business that is a legal entity". (Muladi and Priyatno: 2014). If in a company which in other words the company is a Rechtsperson then the company merges or merges itself into another company which causes the status of the merging company to be lost or dissolved by law and then after the merger or amalgamation process takes place it is only known that the company those combining or merging themselves are proven to have polluted and/or damaged the environment. From this, problems will arise if the company that receives the self-consolidation does not want to be responsible for the pollution and/or environmental destruction carried out by the merging or consolidating company. Whereas, the merging or consolidating companies have been dissolved and their legal entity status has been lost because of the law based on the provisions of Article 122 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies. Therefore, the rule of law is made with the aim of achieving legal certainty, there will be uncertainty if this happens. On the one hand, pollution and environmental damage caused by corporate actions have legal consequences.

Along with the harm that our own actions have brought to the environment, we also have a duty to manage and safeguard it. The Civil Code generally offers compensation for actions that are against the law. Misconduct means any behavior by one or more parties that is detrimental to another party. Of course, if one party breaks the law, whether purposefully or inadvertently, it will hurt the other party whose rights were violated (Article 1365 BW) (Hartanto & Adiastuti, 2017). Polluters who break the law (pollution) must compensate the community, the government, and other parties for their losses. Civil liability, criminal liability, and administrative accountability are all ways in which this responsibility is articulated. Regarding civil law's requirements for compensation or responsibility for wrongdoing (*onrechtmatigedaad*).

Article 122, paragraph (3), letter an of Law Number 40 of 2007 states that Limited Liability Companies are in charge of the new firm or the combined company following a merger or consolidation. If we relate to the existing problems, the Company that has accepted the merger or consolidation itself must be responsible. This is based on the legal transfer of the assets and liabilities of the merged or combined companies to the company accepting the merger or the company created as a result of the consolidation. (Law No. 40 of 2007's Article 122, Paragraph 3, Letter A, Concerning Limited Liability Companies). If there is pollution and/or environmental destruction, it is proper that the legal subject who does this must be responsible for all the actions he has done. There are various forms of responsibility. In this paper, the form of responsibility in terms of civil law. Compensation in accordance with the guidelines established in Article 87 paragraph (1) of Law Number 32 of 2009 regarding Environmental Protection and Management is one way that this responsibility is manifested. Article 87

paragraph (1) is a form of realization of one of the principles in environmental law, namely the polluter pays principle (Siahaan, 2004).

When deciding who is legally liable for environmental contamination and/or destruction, the party receiving the consolidation or merger of the companies will be held accountable. The reason is that the merged or merged company has been dissolved by law and lost its legal entity status, which means that the old company or the merging or merging company cannot take legal action. In addition, in accordance with the provisions of the laws and regulations, if a company wishes to accept a merger or consolidation from another company, it must meet all applicable legal requirements. Then, the parties automatically make an agreement that binds themselves based on the agreement. If in the agreement that reach a deal has made rules regarding responsibility for all existing risks, it will be easier to determine the party who responsible. However, if this is not regulated, then the party receiving the consolidation or merger of the companies is responsible for all conditions of the company.

The transfer of responsibility or the legal term, the obligations that are the obligations of the consolidating company (dissolved by law) will become the responsibility or liability of the company receiving the consolidation. There are two options for settling the environmental dispute itself: in court or out of court. This has been formulated in Chapter XIII Settlement of environmental disputes, part one, Article 84 paragraph (1) of Law Number 32 of 2009 concerning Environmental Protection and Management. The verses of the Koran mention a lot about environmental issues. This means that the Koran has a conservancy on this issue. For example, that the Koran is very strict against people who damage the environment. Even the destroyers of nature are rewarded with very severe punishments as explained in the AL Baqarah verse: 205–206. When he turns away from you, then he also travels upon the earth and does mischief, damages plants as well as animals, and truly God does not want corruption. If it is said to him: "Be devoted to God", then he will show an arrogant attitude and even commit sinful deeds. So later the reply was in the Jahannam nerak. Really it's the worst and scary place. It is even believed that God has sent upon this earth to be the caliph of God, which means the executor of God's desires. "Certainly, very many secrets of Divine greatness and power became apparent in the world, because of human effort."

Conclusion

Based on the legal certainty theory, the rule of law to be applied must also be certain so that it does not have multiple interpretations and others. Termination or dissolution due to the law of a company is one of the legal consequences of the merger. This has been formulated in Chapter VIII Article 122 of Law Number 40 of 2007 regarding about Limited Liability Companies. If the merged or consolidated company is proven to have damaged or polluted the environment, then the civil legal responsibility will shift to the company receiving the consolidation. "Everyone who transfers, changes the nature and form of business, and/or activities of a business entity that violate the law do not release the legal responsibility and/or obligations of the business entity," states Article 87 Paragraph 2 of Law Number 32 of 2007 regarding Environmental Protection and Management. At the time this article was being written, it was discovered that this clause did not comply with the guidelines in Law Number 40 of 2007's Article 122 addressing limited liability companies. The author's study of this issue leads to the conclusion that the special provisions of Article 122 of Law Number 40 of 2007 regarding Limited Liability Companies supersede the provisions of Article 87 paragraph 2 and make them general provisions instead. *Lex specialis derogat legi generali*, which indicates that specific provisions take precedence over general provisions, is thus the appropriate principle in this case. As a result, the requirements of Law Number 32 of 2009's Article 87 paragraph (2) relating Environmental Protection and Management are superseded by the provisions of Law Number 122 of Law Number 40 of 2007 about Limited Liability Companies.

Reference

- Abdurrahman. (2009). *Pengantar Hukum Lingkungan* (Cetakan 3). PT Citra Aditya Bakti.
- Adjie, H. (2008). *Status Badan Hukum, Prinsip-prinsip dan Tanggung Jawab Sosial Perseroan Terbatas*. CV Mandar Maju.
- Akib, M. (2008). *Hukum Lingkungan: Kebijakan Pengaturan Hukum Global dan National*. Lembaga Penelitian Universitas.
- Badruzalman, M. D. (2001). *Kompilasi Hukum Perikatan*. PT Citra Aditya Bakti.
- Black, H. C. (1991). *Black's Law Dictionary*. West Publishing Co.
- Chief, M. (2000). *Black's Dictionary*. St Paul Minnesota : Mwest Group.
- Evita, L., & Rachmawati Nur Ariyanti, E. (2018). Pengawasan Terhadap Ketaatan Penanggung Jawab Usaha Dalam Upaya Melestarikan Dan Mencegah Terjadinya Pencemaran Dan Kerusakan Lingkungan Hidup Di Wilayah Kota Administrasi Jakarta Timur. *ADIL: Jurnal Hukum*, 9(1), 001. <https://doi.org/10.33476/ajl.v9i1.662>
- Hartanto, H., & Adiastuti, A. (2017). Mekanisme Penentuan Ganti Kerugian Terhadap Kerusakan Lingkungan Hidup. *ADHAPER: Jurnal Hukum Acara Perdata*, 3(2), 227–243. <https://doi.org/10.36913/jhaper.v3i2.53>
- Helmi. (2012). *Hukum Perizinan Lingkungan Hidup*. Sinar Grafika.
- Jamaluddin, J., Suhaidi, S., & Marzuki, M. (2020). Tanggung Jawab Korporasi Melalui Ganti Kerugian Atas Pencemaran dan Pengrusakan Lingkungan Hidup Akibat Pembakaran Lahan (Studi Putusan Pengadilan Negeri Meulaboh Perkara No. 12/Pdt. G/2012/PN. Mbo). *Journal of Education, Humaniora and Social Sciences (JEHSS)*, 2(3), 704–719. <https://doi.org/10.34007/jehss.v2i3.158>
- Lestari, S. E. (2017). Kajian Hukum dan Tindakan Bagi Pelanggaran Undang-Undang Nomor 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup. *MIMBAR YUSTITIA, Jurnal Hukum Dan Hak Asasi Manusia*, 1(1), 21–35. <https://doi.org/https://doi.org/10.52166/mimbar.v1i1.567>
- Listiyani, N., Hayat, M. A., & Mandala, S. (2018). Penormaan Pengawasan Izin Lingkungan dalam Pencegahan Pencemaran dan Kerusakan Lingkungan Hidup dalam Eksploitasi Sumber Daya Alam. *Jurnal Media Hukum*, 25(2), 217–227. <https://doi.org/10.18196/jmh.2018.0116.217-227>
- Ma'ruf, A. (2019). Aspek Hukum Lingkungan Hidup Dalam Upaya Mencegah Terjadinya Kerusakan Dan Pencemaran Lingkungan Hidup Di Indonesia. *Jurnal Wacana Hukum*, 24(1), 38. <https://doi.org/10.33061/1.jwh.2018.24.1.2997>
- Nugraha, A. A., I Gusti Ayu Ketut Rachmi Handayani, & Fatma Ulfatun Najicha. (2021). Peran Hukum Lingkungan Dalam Mencegah Kerusakan Dan Pencemaran Lingkungan Hidup. *Jurnal Hukum To-Ra : Hukum Untuk Mengatur Dan Melindungi Masyarakat*, 7(2), 283–298. <https://doi.org/10.55809/tora.v7i2.8>
- Siahaan, N. H. T. (2004). *Hukum Lingkungan dan Ekologi Pembangunan*. PT. Gelora Aksara Pratama.
- Sigarlaki, R. Y. (2015). Kajian Dampak Lingkungan yang Ditimbulkan dari

- Pembuangan Limbah Berdasarkan Undang-undang No. 32 Tahun 2009 Tentang Perlindungan dan Pengelolaan Lingkungan Hidup. *Lex Et Societatis*, 3(3), 37–50.
<https://doi.org/https://doi.org/10.35796/les.v3i3.7906>
- Sulaeman, B., Mina, R., & Fality, F. (2018). Pertanggungjawaban Pidana Terhadap Tindak Pidana Perlindungan dan Pengelolaan Lingkungan Hidup. *Jurnal Yustisiabel*, 2(2), 160–184.
<https://doi.org/https://doi.org/10.32529/yustisiabel.v2i2.229>
- Syahrani, R. (2011). *Rangkuman Intisari Ilmu Hukum*. Citra Aditya Bakti.
- Wijoyo, S. (2013). *Pengkajian Hukum Tentang Perlindungan Kepala Masyarakat Dalam Sengketa Lingkungan Hidup*. BPHN.
- Yulius, L. (2013). Tanggung Jawab Pelaku Usaha Atas Produk Yang Merugikan Konsumen. *Lex Privatum*, 1(3), 28–39.
<https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/3049>