

EFFORTS TO COMBAT CRIMINAL ACTS OF UNLICENSED COSMETICS DISTRIBUTION IN MAKASSAR CITY

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Abstract

This empirical legal research aims to investigate the causes of crimes related to the circulation of cosmetics without distribution permits in Makassar City and propose countermeasures. Conducted at the Sub Directorate 1 of Trade Industry of the Special Criminal Investigation Directorate of South Sulawesi Police and the Makassar Food and Drug Monitoring Center (BPOM), the study utilizes primary data gathered through informant interviews and secondary data from various sources like laws, regulations, and research findings. Factors contributing to these crimes include inadequate supervision, high permit costs, slow processing, aggressive marketing, competitive pricing, and the allure of fast cosmetics. Countermeasures involve Pre-Emptive, Preventive, and Repressive strategies. However, obstacles such as insufficient witness participation, difficulty accessing expert assistance, limited investigator resources, budget constraints, and inadequate infrastructure hinder these efforts.

Keywords: Countermeasures; Crime; Cosmetics.

Abstrak

Penelitian hukum empiris ini bertujuan untuk menyelidiki penyebab tindak pidana terkait peredaran kosmetik tanpa izin edar di Kota Makassar dan mengusulkan penanggulangan. Dilakukan di Sub Direktorat 1 Industri Perdagangan Direktorat Reserse Kriminal Khusus Polda Sulsel dan Pusat Pengawasan Obat dan Makanan (BPOM) Makassar, penelitian ini memanfaatkan data primer yang dikumpulkan melalui wawancara informan dan data sekunder dari berbagai sumber seperti undang-undang, peraturan, dan temuan penelitian. Faktor-faktor yang berkontribusi terhadap kejahatan ini termasuk pengawasan yang tidak memadai, biaya izin yang tinggi, pemrosesan yang lambat, pemasaran yang agresif, harga yang kompetitif, dan daya pikat kosmetik cepat. Penanggulangan melibatkan strategi pre-Emptive, Preventif, dan Represif. Namun, kendala seperti partisipasi saksi yang tidak memadai, kesulitan mengakses bantuan ahli, sumber daya penyidik yang terbatas, keterbatasan anggaran, dan infrastruktur yang tidak memadai menghambat upaya tersebut.

Kata Kunci: Penanggulangan; Kejahatan; Kosmetik.

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INTRODUCTION

The development of cosmetic products is currently experiencing significant growth. Various cosmetic brands continue to emerge and become a favorite of the public, especially women, making cosmetic products an essential need. With so many cosmetic product options, the halal aspect is a major concern, especially since the majority of consumers in Indonesia are Muslims. In addition to halalness, it is also important to ensure that the raw materials of cosmetics are not harmful to health.¹

The variety of cosmetic products on the market can sometimes cause side effects, ranging from mild ones such as skin irritation to serious ones that require medical treatment. This can be caused by the use of non-halal and hazardous ingredients, as well as the absence of a distribution permit from the Indonesian Food and Drug Monitoring Agency (BPOM). Cosmetic raw materials suspected of containing mercury can have very dangerous side effects if used continuously.²

Based on data from 2017 to 2021 submitted by Subdit 1 Indag Ditreskrimsus South Sulawesi Police, there were 14 cases related to the circulation of illegal cosmetics or without a distribution permit. One of the cases is Case File Number: BP/08/II/2019/Ditreskrimsus, involving a suspect named Mrs. dr. Chatrine Meryani Wijaya. The case was an investigation into the alleged criminal act of distributing pharmaceutical preparations in the form of cosmetics that did not have a distribution permit from BPOM RI and/or did not include the necessary information / explanation about the goods.³

METHOD

The research method used is empirical legal research. This research will be conducted in Makassar City, specifically at the Sub Directorate 1 of Trade Industry of the Special Criminal Investigation Directorate of South Sulawesi Police and the Makassar Food and Drug Monitoring Center (BPOM). The type of data used comes from various sources, including primary data obtained through interviews with informants from among investigators, and secondary data derived from library materials such as written documents, laws and regulations, research results, scientific articles, and other literature. The data collection techniques applied involved interviews and documentation, and the data was then analyzed qualitatively.⁴

RESULT AND DISCUSSION

1. Legal Basis for Cosmetics Distribution in Indonesia

The distribution permit is defined based on the Regulation of the Head of the Food and Drug Supervisory Agency of the Republic of Indonesia Number Hk.00.05.1.23.3516 concerning the Distribution Permit for Medicinal Products, Traditional Medicines, Cosmetics, Food Supplements, and Foods Sourced, Containing, From Certain Ingredients And / Or Containing Alcohol. This is a form of registration approval granted by the Food and Drug Administration of the Republic of Indonesia for

¹ Ayu Humaira, Yulia, Fatahillah, Perlindungan Hukum Bagi Konsumen Terhadap Pengguna Kosmetik Yang Tidak Terdaftar Badan Pengawasan Obat Dan Makanan (BPOM) (Studi Penelitian Di Kota Idi Kabupaten Aceh Timur), Jurnal Ilmiah Mahasiswa Fakultas Hukum Volume IV Nomor 2 (April 2021).

² Cristina Emaeli Pangemanan S.L.H.V., Joyce Lopian, Emilia Gunawan, The Effect of Celebrity Endorser And Online Promotion On Online Purchase Decision Of Maybelline Cosmetics Products In Manado City, urnal EMBA Vol.10 No.4 Oktober 2022, Hal. 434-443

³ Barda Nawawi Arief. 2002. Kebijakan Hukum Pidana. Bandung. Penerbit PT. Citra Aditya Bakti.

⁴ Siti Ajeng Putriana, Aura Nur Maulida, Reza Matulatan Restrukturisasi Kewenangan Bpom Dan Sistem Kooperatif Penanggulangan Peredaran Kosmetik Ilegal Secara Online. Jurnal Legislatif Volume 3 No.2 Juni 2020.

drugs, traditional medicines, cosmetics, dietary supplements, and food products. This approval is required so that the product can legally circulate within Indonesia. Therefore, cosmetics without a distribution permit can be defined as cosmetic products that have not received registration approval from BPOM and are therefore not allowed to be legally circulated in Indonesia.⁵

In Law No. 36 of 2009 concerning Health, sanctions related to the circulation of cosmetics without a distribution permit have been regulated, which are described in article (Indonesian Law No. 36 of 2009 concerning Health);

Article 196

“Any person who intentionally produces or distributes pharmaceutical preparations and/or medical devices that do not meet the standards and/or requirements for safety, efficacy or usefulness, and quality as referred to in Article 98 paragraph (2) and paragraph (3) shall be punished with a maximum imprisonment of 10 (ten) years and a maximum fine of Rp1,000,000,000.00 (one billion rupiah)”

Article 197

“Any person who intentionally produces or distributes pharmaceutical preparations and/or medical devices that do not have a distribution permit as referred to in Article 106 paragraph (1) shall be punished with a maximum imprisonment of 15 (fifteen) years and a maximum fine of Rp1,500,000,000.00 (one billion five hundred million rupiah)”

2. *Factors Causing the Occurrence of Criminal Acts of Unlicensed Cosmetics Distribution in Makassar City*

Every cosmetic product circulating in Indonesia must have a distribution permit from the Food and Drug Monitoring Agency (BPOM). The procedure for applying for cosmetics notification is regulated in BPOM Regulation No. 12/2020 regarding the Procedure for Submitting Cosmetics Notification. The regulation states that every cosmetic, whether domestically produced or imported for trade in Indonesia, must obtain a distribution license.⁶

In the Indonesian context, the institutions authorized to issue distribution permits for processed food including cosmetics are the Health Office and BPOM. This distribution permit provides legal certainty to the public or consumers regarding the cosmetic products they use. For business actors, having a BPOM distribution permit not only provides legal certainty but also opens up opportunities to access a wider market, including international markets. However, the reality is that many cosmetic products are circulating without a distribution permit from BPOM. During the period of 2017 to 2021, there were 14 cases of criminal acts related to the circulation of cosmetics without a distribution permit in Makassar City. These cases were reported to the South Sulawesi Police Service Center and subsequently handled by the Directorate of Criminal Investigation, Sub-Directorate 1 Indag. Subdit 1

⁵ Liandhajani, Judicial Review of the Circulation of Illegal Cosmetics, *LITERATUS* literature for social impact and cultural studies- ISSN:2686-5009, Vol. 4, No. 2, October 2022, pp.581-588

⁶ Rizki Setyobowo Sangalang, peran kepolisian dalam penanggulangan berita hoaks Di media sosial di provinsi kalimantan tengah, *Morality : Jurnal Ilmu Hukum* Juni 2020, Volume 6 Nomor 1 hal 39



Indag of the South Sulawesi Police Special Crimes Unit has the responsibility to investigate and handle violations related to 20 laws in its field.

Based on data on criminal cases of circulation of cosmetics without a distribution permit in Makassar City from 2017 to 2021 in Subdit 1 Indag Ditreskrimsus of South Sulawesi Police are as follows:

Table 1. Case Data of Criminal Acts of Cosmetics Distribution without a Distribution Permit in 2017-2021

Year	Report	Stages			
		inquiry	investigation	P21	SP3
2017	1	-	-	1	-
2018	2	-	-	2	-
2019	4	-	-	4	-
2020	2	-	-	2	-
2021	5	-	-	5	-
Total	14	-	-	14	-

Data Source: Ditreskrimsus Polda Sulsel Year 2022

Description:

P21: Completed cases submitted to the Makassar District Attorney's Office

SP3: Order to Discontinue Investigation

Based on the data in table 1, it can be seen that the number of reports of cosmetics cases without distribution permits from 2017 to 2021 in Subdit 1 Indag Ditreskrimsus Polda Sulsel is 14 reports, namely in 2017 there was 1 case of cosmetics without a distribution permit, in 2018 there were 2 case reports, and in 2019 there were 4 reports of cosmetics cases without a distribution permit. In 2020 there were 2 case reports, and in 2021 there were 5 reports of cosmetics cases without distribution permits at the South Sulawesi Police.

All reported cases are then followed up through investigation and investigation, and all cases have reached P21 or the case file has been declared complete by the Public Prosecutor and the Suspects and Evidence have been handed over to the Public Prosecutor. Factors causing the occurrence of criminal acts of cosmetic distribution without a distribution permit in Makassar City from the role of producers as perpetrators, namely:⁷

- a. Lack of Supervision,

⁷ Depok. Penerbit Raja Grafindo Persada Nelly Herlina, Dessy Rakhmawati Upaya Penanggulangan Tindakan Pidana Peredaran Kosmetik Tanpa Izin di Kota Jambi, Jurnal Sains Sosio Humaniora P-ISSN: 2580-1244 Volume 5 Nomor 2 Desember 2021.

Police officers in collaboration with BPOM should routinely conduct operations or raids on dangerous food, drugs and cosmetics circulating in the community. However, due to various obstacles, efforts to tackle the circulation of dangerous products are not well implemented. From the police side, apart from the lack of personnel, it is also due to the accumulation of case reports in Subdit 1 Indag Ditreskrimsus South Sulawesi Police which oversees criminal acts on 20 laws. All case reports of criminal acts of circulation of cosmetics without distribution permits are based on the participation of the community, not the findings of police officers.

b. Expensive Circulation Permit Processing

A distribution permit from the Food and Drug Administration is mandatory for every cosmetic product circulating in Indonesia. The procedure for applying for cosmetics notification is stipulated in the Food and Drug Supervisory Agency Regulation No. 12 of 2020 concerning Procedures for Submitting Cosmetics Notification. In the regulation, it is explained that every cosmetic, whether domestically produced or imported to be traded within Indonesia, must have a distribution permit. In Indonesia, the institutions that have the authority to issue processed food distribution permits are the Health Office and the Food and Drug Supervisory Agency (BPOM). With this distribution permit, the public or consumers get legal certainty over the cosmetic products they use. For business actors, legal certainty in the form of a BPOM distribution permit can also make it easier to reach a wider market, even abroad.

Regarding the BPOM distribution permit registration fee, there are several components that must be considered. The BPOM distribution permit registration fee is included in the Non-Tax State Revenue (PNBP) component. This is regulated in Government Regulation (PP) Number 32 of 2017 concerning Types and Tariffs on Types of Non-Tax State Revenue that Apply to BPOM, namely:

- 1) The notification service for cosmetic products manufactured outside the ASEAN region has a fee starting from IDR1.5 million per item, while for products manufactured in ASEAN countries, the fee is around IDR500,000 per item
- 2) To extend (mereregistration) which is valid for 5 years, the fee charged is Rp1 million per item for traditional medicine small businesses, and Rp5 million per certificate for Good Manufacturing Practice (GMP) certification or in Indonesian (CPKB).

Ten perpetrators stated that the reason for committing the crime of distribution of cosmetics without a distribution permit was the high cost of obtaining a permit, not including costs outside the official list.

c. The length of time it takes to obtain a distribution licence

Registering for a distribution permit for cosmetics to obtain a distribution permit takes time and the process that must be followed is quite long and requires a clinical trial process to ensure the safety of cosmetic products. The 4 perpetrators of the crime stated that they had registered for a distribution permit for cosmetics, but due to the complicated and convoluted registration process and the long time it took, the perpetrators did not complete the distribution permit application.

The factors causing the criminal offence of unlicensed cosmetics in Makassar City are also due to the role of consumers, which can be seen in table as follows:

Table 2. Role of Consumers

No.	contributing factors	frequency	%
1.	Heavy promotion of cosmetic products	13	52
2.	Cheaper cosmetics prices	5	20
3.	Fast cosmetic action	7	28
Total		25	100

Data Source: Processed from questionnaires

The explanation about the table are below.

a. Heavy promotion of cosmetic products

Most respondents used cosmetics without a marketing authorisation due to heavy promotion. 13 respondents get cosmetic product information through social media such as Facebook and Instagram. The use of celebrities in endorsing Maybelline Cosmetics products can encourage consumers to make purchases, as well as online promotions that are used very temptingly so that consumers decide to purchase cosmetic products. Celebrity endorsers and online promotions have an effect on purchasing decisions. Some are based on testimonials from friends and family who have used the cosmetic products before. The seller guarantees that the cosmetic products are formulated by skin and beauty specialists, so even though they are not accompanied by a distribution permit from BPOM, they are still safe to use. This is not entirely true, because the perpetrators who have been processed at the Sul-Sel Police are not skin and beauty specialists, such as Astriana who formulated cosmetics with AS MAGIC without a distribution permit and formulated DIAMOND CREAM brand cosmetics without a distribution permit.⁸

There is also a perpetrator who works as a doctor, namely Dr. Cathrine Meryani Wijaya, who has been prosecuted with a criminal offence in the field of consumer protection, namely allegedly trading cosmetic products to consumers / patients who do not have a distribution permit from BPOM RI and do not include information / explanation on the label of the goods.⁹

b. Lower price of cosmetics

The need for cosmetic products is very high by both adult and young consumers. 5 informants stated that they buy cosmetics without a distribution permit because the price is cheap and very easy to obtain. They could not afford to buy cosmetic products with a BPOM marketing authorisation because of the high price. Regarding the negative impact of using cosmetic products, the informants stated that they did not think about the impact and did not feel any negative impact during the use of these cosmetic products.

Illegal cosmetics are goods that are sold, disseminated, or circulated without a BPOM (Food and Drug Supervisory Agency) license. Numerous consumers are oblivious to the problems that may arise

⁸ Retno Haryanti, Auliya Suwantika, Marline Abdassah, Tinjauan Bahan Berbahaya Dalam Krim Pencerah Kulit, Farmaka Volume 16 Nomor 2 hal,217

⁹ Soerjono Soekanto. 2019. Faktor-Faktor yang Mempengaruhi Penegakkan Hukum. Depok. Penerbit Raja Grafindo Persada.

in the future as a result of their usage of these unlawful cosmetics. Many illicit cosmetic items remain on the market as a result of the desire of many consumers to achieve beauty and attractiveness rapidly. Illegal cosmetics sometimes contain forbidden raw components, both in form and quantity. In addition, advertisements and product labelling are not compliant with BPOM rules.

c. Fast working power of cosmetics

The fast-acting nature of cosmetic products attracts consumers to buy cosmetic products even without a distribution permit from BPOM. 7 respondents stated that the cosmetics in the form of face whitening and handbody that they use, can whiten the face and body after using 1 package of the product. Cosmetic products that are accompanied by a distribution permit can only be seen after a long period of use, and some are even unsuccessful.

Various countries have set specific regulations regarding the use of harmful skin lightening ingredients in cosmetic preparations. In Indonesia, based on the regulation of the Head of the Food and Drug Administration of the Republic of Indonesia number 17 of 2014 concerning amendments to the regulation of the Head of the Food and Drug Administration number hk.03.1.23.07.11.6662 of 2011 concerning Requirements for Microbial and Heavy Metal Contaminants in Cosmetics in Article 4 stated: (1) Heavy metal contamination as referred to in Article 2 paragraph (2) is a trace element that cannot be avoided. (2) Heavy metals as referred to in paragraph (1) include Mercury (Hg), Lead (Pb), Arsenic (As) and Cadmium (Cd). The requirements for heavy metal contamination in the appendix of the decree mentioned respectively for mercury (Hg), lead (Pb), arsenic (As) and cadmium (Cd) are no more than 1 mg/kg, 20 mg/kg, 5 mg/kg and 5 mg/kg.¹⁰

3. *Efforts to Combat the Crime of Unlicensed Cosmetics Distribution in Makassar City*

Pre-emptive action is a preventive measure taken at an early stage, involving the implementation of counselling activities aimed at influencing the driving factors and opportunities for crime. Thus, it is expected to create awareness and vigilance, build resilience, and form conditions of behaviour and norms of life that are free from various forms of crime.

Pre-emptive efforts carried out by the South Sulawesi Police Ditreskrimsus apparatus, especially Subdit 1 Industry and Trade in collaboration with the Community Development Unit (Binmas) are conducting counselling to the public about the harmful effects of using cosmetics without a distribution permit and urging cosmetics manufacturers to take care of licensing. Preventive measures focus on actions taken before a criminal offence occurs. Because crime prevention efforts emphasise preventive measures before a crime occurs, the aim is to address conducive factors. This includes social problems or conditions that can directly or indirectly trigger or strengthen crime.

Preventive measures aim to bring about positive changes in society so that potential disturbances can be minimised, resulting in legal stability. Preventive efforts aim to reduce a person's opportunity to be involved in crime. In the context of preventing the circulation of cosmetics without distribution permits in Makassar City by the South Sulawesi Police Special Crimes Unit, the preventive approach is carried out through supervision, inspection, raids, and operations by BPOM Makassar City officers in various places such as shops, shopping centres, and traditional markets.

¹⁰ Bondan Wicaksono, Abdul Agis & Nurul Qamar, Penanggulangan Tindak Pidana Korupsi Dalam Pengelolaan Keuangan Dana Desa, *Journal of Lex Generalis (JLS)* Volume 2, Nomor 2, Februari 2021 hal.546

One of the factors causing the prevalence of this criminal act is due to weak supervision, giving the perpetrators the opportunity to sell cosmetic products without a distribution permit and open beauty clinic practices that use cosmetic products without a distribution permit. Such as the case of Dr Cathrine Meryani Wijaya who opened 3 beauty clinics, one of which is even in Ratu Indah Mall Makassar.

The perpetrators of the crime of distribution of cosmetics without a distribution permit sometimes commit other criminal acts simultaneously, such as the perpetrator Hatima committing a criminal act in the health sector, namely conducting pharmaceutical practice activities in the form of whitening injection services to patients (consumers) since the beginning of January 2018 and distributing cosmetics without a distribution permit. The perpetrator was not a doctor specialising in skin and beauty but provided injections to patients/consumers.¹¹ To prevent similar cases from occurring, police officers in collaboration with BPOM Makassar City officers are actively monitoring the circulation of cosmetics in the community.

Law enforcement is an effort made logically to overcome crime, ensure the fulfilment of justice, and is effective. Crime prevention measures can be responsive, which includes punitive measures in the form of both criminal and non-criminal penalties that can be integrated together. Crime handling through criminal means is carried out through criminal law policy, where methods are chosen that are suitable for certain conditions and situations at a certain time, and are suitable for the future. (Barda Nawawi Arief. 2002. Criminal Law Policy. Bandung. Publisher of PT Citra Aditya Bakti. Page. 109)

Repressive duties involve the investigation of crimes and offences in accordance with the provisions of the law. This is the responsibility of the police in the context of the justice system. (Rizki Setyobowo Sangalang, the role of the police in tackling hoax news on social media in central Kalimantan province, *Morality: Journal of Legal Science* June 2020, Volume 6 Number 1 page 39).

Repressive efforts taken by the South Sulawesi Regional Police apparatus, namely carrying out the law enforcement process for criminal acts of cosmetics without distribution permits in the Police through investigations and investigations based on the results of interviews conducted by the author with AKP Sultan Iqbal, Subdit I Investigator (interview dated 3 October 2022) stated that the investigation and investigation of criminal cases of criminal acts of cosmetics without distribution permits are carried out in accordance with the law:

- 1) "Kitab Undang-Undang Hukum Acara Pidana (KUHAP);
- 2) National Police Chief Regulation No. 6/2019 on Standard Operating Procedures for Criminal Investigation;
- 3) Head of Criminal Investigation Agency Regulation No. 1 of 2014 on Standard Operating Procedures for Planning Criminal Investigations;
- 4) Chief of Criminal Investigation Agency Regulation No. 2 of 2014 on Standard Operating Procedures for Organising Criminal Investigations;
- 5) Head of Criminal Investigation Agency Regulation No. 3 of 2014 on Standard Operating Procedures for the Implementation of Criminal Investigations.
- 6) Head of Criminal Investigation Agency Regulation No. 1 of 2014 on Standard Operating Procedures for the Supervision of Criminal Investigations."

¹¹ Saleh Muliadi, Aspek Kriminologis Dalam Penanggulangan Kejahatan, *Fiat Justitia Jurnal Ilmu Hukum* Volume 6 No. 1 Januari-April 2012, ISSN 1978-5186 hal.10

4. Obstacles to Overcoming Criminal Acts of Unlicensed Cosmetics Distribution in Makassar City

Factors causing the criminal act of circulation of cosmetics without a distribution permit in Makassar City are lack of supervision, high cost of license processing, length of license processing, vigorous product promotion, cheaper cosmetic prices and fast working cosmetics.

According to BRIPKA Khairul Hadi, SH, as the Investigator of Subdit 1 Indag Ditreskrimsus Polda Sulsel, although all case reports can be completed until the P21 stage, there are several obstacles faced by the Police in overcoming criminal acts in the field of industry and trade, especially the crime of distribution of cosmetics without a distribution permit. Moreover, the criminal act of circulation of cosmetics without a distribution permit still occurs a lot and is not reported to the police.

The obstacles in overcoming the criminal act of circulation of cosmetics without a distribution permit are:

- a. Lack of witness participation in providing testimony in the investigation process.

Witness statements are a form of evidence used in criminal cases, consisting of what a witness says about a criminal event. Witness statements as evidence refer to what the witness says before the court. In other words, only witness testimony disclosed during examination in court is considered valid evidence, as stipulated in Article 185 paragraph (1) of the Criminal Procedure Code (KUHAP). According to IPTU Aris Saigy, SH, Investigator of Subdit 1 Indag Ditreskrimsus Polda Sulsel, in an interview on 3 October 2022, he stated that (interview dated 3 October 2022) that:

One of the obstacles experienced by investigators in the investigation process is the lack of participation of witnesses, sometimes witnesses do not want to come to provide testimony even though summons have been made. Sometimes the public does not fulfill the summons of investigators as witnesses in the criminal investigation process. People tend to avoid and do not want to become witnesses because they are afraid to provide testimony and are reluctant to participate in the investigation process while witness testimony is one of the evidence in revealing a crime. This greatly hampers the investigation process

- b. Investigators who have not mastered the laws and regulations in the field of industry and trade

There are still investigators who have not mastered the laws and regulations. Ideally, an investigator has expertise in terms of laws and regulations that become his duties and responsibilities. In this situation, an investigator is expected to have a deep understanding of ongoing and developing criminal offenses, as well as understanding the legal regulations that will be applied to the perpetrator (accused). To achieve this, the qualifications of the investigator's legal expertise are very important.

According to IPTU Aris Saigy, SH as Investigator of Subdit 1 Indag Ditreskrimsus Polda Sulsel (interview dated October 3, 2022) that:

"Most investigators in Subdit 1 Indag of the South Sulawesi Police Criminal Investigation Unit, there are still a few who have a championship education in the field of industry and trade. As a state tool in law enforcement, the ability of Police Investigators still needs to be improved with disciplinary knowledge in accordance with their fields. An investigator needs to have a high level of education to improve the quality of Human Resources (HR) of Police Investigators. Investigators must also continue to develop their abilities, especially in their respective fields of work. The quality of investigators has a significant impact on the results of their performance in completing their duties as police investigators. The success of the prosecution is highly dependent on the success of the investigation; conversely,

failure in the investigation can result in weak files used to compile the indictment. Weaknesses in the indictment file can result in the prosecutor's failure to prosecute in court. Therefore, a successful investigation plays an important role in the next stage of the law enforcement process.”

c. Limited number of investigators.

To deal with the high level of crime in the industrial and commercial sectors, a sufficient number of personnel is required. The limited number of investigating personnel can hamper the smoothness of the investigation process, so that the process will take place slowly. According to IPTU Aris Saidy, SH as Investigator of Subdit 1 Indag Ditreskrimsus Polda Sulsel (interview on October 3, 2022)

“We are still very short of members and to carry out investigations with the number of existing reports is irrelevant to the manpower we currently have so that the investigation process takes a long time.””

Based on these interviews, it is clear that the limited number of investigators has a significant impact on the effectiveness of their performance in conducting investigations. The current number of investigators represents a real difficulty in coping with the increasing crime rate. With a limited number of investigators, they have difficulty handling the increasing number of reports. As a result, the performance of Subdit 1 Indag Ditreskrimsus South Sulawesi Police has become less effective. Data from Subdit 1 Indag of the South Sulawesi Police Special Crimes Unit shows that there are only 22 investigators, which has resulted in obstacles in the investigation process and even some cases not being resolved.

Based on the results of interviews conducted by the author with BRIPKA Khairul Hadi, SH as Investigator of Subdit 1 Indag Ditreskrimsus Polda Sulsel (interview dated October 4, 2022) stated that:

“There is still a shortage of investigators who are not balanced with the number of reports received. The current number of investigators is not sufficient to handle a very large volume of cases, so that many reports experience delays in the settlement process. There are also reports that require a long time to complete with certain reasons that are different in each case. In the Trade Industry sector, there are as many as 20 laws that we handle so that with limited investigators, the investigation and investigation process takes a long time, such as the case of the suspect Dr. CATHRINE MERYANI WIJAYA, starting the investigation on November 2, 2018 until November 28, 2018, then the investigation began on November 29 until June 19, 2020. It took 7 months from the issuance of the Investigation Order to the submission of suspects and evidence to the Public Prosecutor.”

d. Difficulty in requesting expert testimony at the office of the Directorate General of Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia

Expert testimony as evidence occupies the second position according to the systematization listed in Article 184 of the Criminal Code (KUHP). This indicates that expert testimony has a significant role in evidence when investigators, prosecutors, or judges do not have a clear or complete understanding of a criminal offense.

According to IPTU Aris Saidy, S.H, as an investigator in Unit 3 of Subdit 1 Indag Ditreskrimsus Polda Sulsel (Interview on October 3, 2022) that: In terms of requesting expert testimony, the absence of experts stationed in the Province, especially in South Sulawesi, is an obstacle, for example in the case of criminal acts in the field of trademarks, we have to write to the Directorate General of

Intellectual Property of the Ministry of Law and Human Rights of the Republic of Indonesia in Jakarta so that more or less definitely affects the time of the investigation process.

From the results of these interviews, it is known that the process of requesting and taking expert testimony in trademark cases affects the investigation time because the correspondence must go to the Ministry's office in Jakarta.

e. Lack of investigation budget.

To handle a criminal case, an operational budget allocation is required to support the performance of police investigators. The limited investigation budget can be an obstacle to the effectiveness of law enforcement, especially for police investigators. According to BRIPKA Khairul Hadi, SH, who serves as an Investigator of Subdit 1 Indag Ditreskrimsus Polda Sulsel, the limited investigation budget is a factor that affects their performance (Interview on October 4, 2022).

"The limitation of the investigation operational budget is one of the obstacles in the implementation of the investigation process because until now the investigation operational budget is considered inadequate, which has an impact on the slowness of the investigation process, in each difficult case handled only a budget of Rp. 27,025,000, - (twenty-seven million twenty-five thousand rupiah) while in the proof must ask for expert testimony in Jakarta not to mention if a criminal expert testimony is needed from academics."

From the results of the interviews, it was revealed that the lack of operational costs of the investigation greatly hampered the course of the investigation process. A number of investigators were forced to use personal funds to support the implementation of their official duties. However, not all investigators were willing to spend their personal money for investigation purposes, so some cases could not be completed. This problem has become a significant obstacle in the implementation of the investigation process.

f. Inadequate facilities and infrastructure to support the performance of investigators

Facilities are a very important supporting element in carrying out law enforcement efforts. Without the availability of adequate facilities, the implementation of law enforcement will experience difficulties in achieving the objectives as expected by the law itself. This component of facilities involves human resources with education and skills, well-structured organizations, adequate equipment, sufficient finance, and other elements. The existence of these means and facilities has a very important role, because without this availability, law enforcement will be difficult to achieve its goals (Soerjono Soekanto, 2019).

In the context of investigations, one of the obstacles faced by investigators is the limited facilities and infrastructure owned by the Criminal Investigation Unit. The availability of facilities and infrastructure is very important to support the optimal performance of investigators in carrying out their duties and functions. According to an interview with IPTU Aris Saigy, SH, Investigator of Subdit 1 Indag Ditreskrimsus Polda Sulsel, the facilities and infrastructure needed by investigators are still inadequate. Sometimes, investigators have to use their own personal facilities to support the investigation..

Constraints stemming from the lack of facilities and infrastructure have a significant impact. The inadequate availability, particularly evident in the very limited number of operational vehicles, means that investigators sometimes have to use their personal vehicles in carrying out the investigation process.

This reflects that most investigators rely on their personal facilities to carry out their investigative duties. This lack of facilities and infrastructure significantly impedes the performance of investigators in completing the investigation process, as facilities and infrastructure are necessary for the smoothness and efficiency in carrying out investigation tasks.

According to an interview with IPTU Aris Saidy, SH as Investigator of Subdit 1 Indag Ditreskrim Sus Polda Sulsel (interview on October 3, 2022)

"The availability of facilities and infrastructure needed by investigators in conducting investigations is not sufficient, investigators sometimes use privately owned facilities to support the performance of investigators"

Barriers in terms of facilities and infrastructure have a significant impact, due to the inadequate availability of supporting facilities. From the results of the interviews, it appears that the availability of facilities and infrastructure in Subdit 1 Indag Ditreskrim Sus South Sulawesi Police is very limited. For example, the availability of operational vehicles is very limited. Several times investigators used private vehicles when carrying out the investigation process, where most investigators relied on personal facilities to carry out investigative tasks. The limited facilities and infrastructure have a negative impact on the performance of investigators, because these facilities are very helpful in the smooth completion of the investigation process. This significantly hampered the course of the investigation process.

CONCLUSION

Factors causing the criminal act of circulation of cosmetics without a distribution permit in Makassar City are lack of supervision, high cost of license processing, length of license processing, vigorous product promotion, cheaper cosmetic prices and fast working cosmetics. Countermeasures against the crime of distribution of cosmetics without a distribution permit in Makassar City are through Pre-Emptive Efforts, Preventive Efforts and Repressive Efforts. The obstacles in countering the criminal act of circulation of cosmetics without a distribution permit in Makassar City are external factors, namely the lack of witness participation and the difficulty of requesting expert testimony, as well as internal factors, namely lack of understanding of the rules, limited number of investigators, limited budget, limited facilities and infrastructure.

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