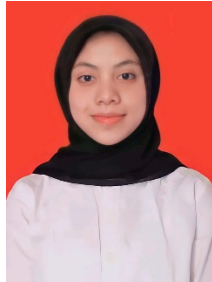


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## JURIDICAL ANALYSIS OF THE CASE OF THE USE OF EXPLOSIVES IN FISHING IN CANTIGI WATERS BY THE DITPOLAIRUD

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### Abstract.

**Background.** This paper examines the juridical aspects of the use of explosives in fishing by the Ditpolairud through the perspective of the Criminal Code (KUHP) Article 1 Paragraph (1) of Emergency Law No. 12 of 1951 concerning Explosives and Firearms.

**Methods.** This research uses Normative and Qualitative Juridical Methods supported by document analysis. The data collection technique is carried out by means of a literature study for secondary data and presented descriptively.

**Result.** The results of this study show that fishing has been carried out using explosives without a permit which is prohibited according to the provisions of laws and regulations and has met the elements in Article 1 Paragraph (1) of Emergency Law No. 12 of 1951 concerning Explosives and Firearms, and or Article 84 Paragraph (1) of Law No. 45 of 2009 concerning Fisheries, this case occurred in the waters of the Cantigi Sea, Indramayu on Wednesday, May 19, 2021 at around 21.15 WIB.

**Conclusion.** Therefore, the Ditpolairud conducted an investigation to find evidence and could conclude the analysis and juridical of the case.

**Keywords:** Juridical Analysis, Explosives, Role of Ditpolairud

## INTRODUCTION

Indonesia has extraordinary biodiversity, both on land and in waters, especially in coastal areas, which are influenced by geophysical conditions and its tropical geographical location. With 17,508 islands spread as far as 1,760 km from north to south, Indonesia is one of the largest archipelagic countries in the world. This natural diversity is available for Indonesia to be used wisely to improve national and international life. Natural resources on the coast can be damaged if used uncontrollably. How much human activity is known to damage the coastal and marine environment. Some types of human activities include agriculture, fisheries, industry, settlements, destruction, tourism (new), marine transportation (including seaports), mining, and energy. These activities can directly damage the ecosystem of coastal natural resources, such as fishing using explosives, dredging the bottom of shipping channels, removing boat anchors in coral areas, taking corals for construction and or aquarium decorations, or waste waste from production disposed of in coastal areas. This activity can also damage production waste that is disposed of in coastal areas. One of the cases that occurred in the waters of Cantigi Indramayu was fishing using explosives that caused damage to the marine ecosystem. <sup>1</sup>

Fishing using explosives is contrary to Article 1 Paragraph (1) of the Emergency Law No. 12 of 1951 concerning explosives and firearms. The use of explosives in fishing is a very destructive method and is classified as illegal throughout Indonesia. This technique is done by packing explosive powder in a specific container, then installing a wick, igniting, and throwing it into the water. The explosion that occurred produced a strong shock in the waters, which could kill almost all marine life in the vicinity. Fishermen only take fish for consumption that have a high selling value, while many species of fish and other marine animals are left to die among the debris of coral reefs that are at risk of permanent damage. Fishing activities by fishermen using explosives, toxic materials, and trawl fishing gear are contrary to the provisions of applicable law. These activities generally negatively impact aquatic resources, causing damage to marine ecosystems. Even though it is detrimental to the environment, this method is still carried out because it provides great benefits for fishermen in the short term. Fishing around coral reefs using explosives can adversely affect not only the targeted fish, but also the surrounding ecosystem. The resulting explosion can damage coral reefs and cause the

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<sup>1</sup> Darojatun Andara, Kaswandi, Muhammad Yasri Susanto, "*The Role of the Baubau Police Satpolairud in Law Enforcement Against Illegal Fishing Perpetrators in the Waters of Baubau*", *Journal of Citizenship*, vol 7, Pages 1235-1236, accessed March 10, 2025

death of various marine life in the area. In addition to threatening the preservation of underwater habitats, the use of explosives in fishing activities also risks accelerating the destruction of coral reef ecosystems as a whole.<sup>2</sup>

Cases of the use of explosives in fishing are still rampant in the waters of Cantigi, Indramayu, so this case is a serious problem that needs to be handled continuously. The role of police officers, especially the Ditpolairud, is very important in law enforcement efforts. Until now, the police have taken various preventive measures, such as routine patrols by Polair, legal counseling to fishermen and the surrounding community regarding violations that have occurred, and information collection related to illegal activities in the waters. Fishery business actors who use explosives in fishing activities can be subject to criminal liability as stipulated in Article 1 paragraph (1) of Emergency Law Number 12 of 1951 concerning Explosives and Firearms, which states that "Whoever, without the right to enter Indonesia, makes, receives, attempts to acquire, surrender or attempts to surrender, control, carry, have supplies to him or has in his possession, Storing, transporting, concealing, using, or removing from Indonesia any firearms, ammunition or explosives, shall be punishable by the death penalty or life imprisonment or imprisonment for a maximum of twenty years."<sup>3</sup>

Article 1 paragraph 1 of Emergency Law Number 12 of 1951 regulates criminal acts related to firearms, explosives, and objects that can be used to endanger public safety. This article states that: "Whoever without the right to, possess, store, carry, or control firearms or explosives prohibited by laws and regulations, may be subject to criminal penalties." Thus, this article emphasizes that the act of possessing, storing, carrying, or possessing firearms or explosives without a permit is a punishable criminal offense, as an effort to maintain public security and order and prevent acts that endanger public safety. Emergency Law No. 12 of 1951 is indeed designed to address the problem of illegal possession of firearms and explosives in Indonesia, especially after the independence period which presents various challenges in terms of security.<sup>4</sup>

Article 84 paragraph (1) of Law No. 45 of 2009 concerning Amendments to Law No. 31 of 2004 concerning Fisheries (Fisheries Law) which states that every person who deliberately catches fish using explosives or other tools that threaten the sustainability of fish

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<sup>2</sup> Achmad Faisal, "*The Law of Waste Regulation and the Green Industry Paradigm*", Pustaka Yustisia, p. 48, accessed 10 March 2025

<sup>3</sup> Otto Soemarwoto, "*Analysis of Environmental Impacts*", Gadjah Mada University Pres, p. 79, accessed 10 March 2025

<sup>4</sup> Emergency Law No. 12 of 1951 amends the "Ordonnantie Tijdelijke Bijzondere strafbepalingen" (Stbl. 1948 No.17) and the former Law of the Republic of Indonesia No. 8 of 1948, Article 1 paragraph (1)

resources and the environment is threatened with a maximum prison sentence of 6 (six) years and a maximum fine of Rp 1,200,000,000.00 (one billion two hundred million rupiah). Based on the provisions of this article, the perpetrators of the crime of blast fishing can be subject to two types of criminal sanctions, namely imprisonment and fines. This means that the criminal sanctions are cumulative in the form of imprisonment and fines, so the blast fishing perpetrators are subject to both crimes.<sup>5</sup>

According to the author, factors must cause fishermen to use explosives or fish bombs in fishing activities. Various levels of fishermen's compliance with fisheries regulations are influenced by several factors, such as compliance with the rules, the socioeconomic characteristics of fishermen, perceptions of environmentally friendly fishing gear, and perceptions of fishery resources. Understanding these causative factors is essential, especially for crime prevention efforts in fishing. Thus, the government can formulate more effective and efficient policies to address the problem of using explosives or fish bombs. It is hoped that government policies in the future can be more effective and efficient by paying attention to significant changes related to the availability of fish resources, the preservation of the fisheries environment, and the development of increasingly modern and efficient fisheries management methods. Therefore, fisheries management must be carried out carefully, based on the principles of benefit, justice, partnership, equity, integration, openness, efficiency, and sustainability. This study aims to analyze the causative factors and efforts to counter explosives in fishing in the Cantigi waters of Indramayu Regency.<sup>6</sup> Based on the background, the author found the formulation of the problem, namely, how to regulate the legal arrangements related to the use of explosives in fishing activities at sea, how to enforce the law against perpetrators of fishing using explosives, and what role the Ditpolairud plays in dealing with the case.

## METHODS

This research uses normative and qualitative judicial methods supported by document analysis. The data collection technique is carried out by means of a literature study for secondary data and presented descriptively.

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<sup>5</sup> Law Number 45 of 2009 concerning Fisheries Article 84 paragraph (1)

<sup>6</sup> Alfin Kadja, Rudepel Petrus Leo, Deby F.Ng.Fallo, "*Causative Factors and Efforts to Counter the Use of Explosives in Fish Theft in the Waters of the Sawu Sea, Kupang Regency*", *Journal of Political Law and Social Sciences*, Vol 3, Page 177, accessed March 11, 2025

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## DISCUSSION

### Result

The results of the study show that, based on the Police Report Number: LP. A/52/V/2021/SPKT. KOPOLAIRUD/BAHAKAMPOLRI, on May 20, 2021, there has been an alleged criminal act of fishing using explosives as referred to in Article 1 paragraph (1) of Emergency Law No. 12 of 1951 concerning Explosives and Firearms and or Article 84 paragraph 1 Number 45 of 2009 concerning Fisheries that occur in the waters of Cantigi, Indramayu. On Wednesday, May 19, 2021, at around 22.30 WIB at coordinates 060 14 740" S-1080 09'800" E.<sup>7</sup>

Regarding applying Article 84 Paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to the Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries, the perpetrator admitted to using explosives to catch fish. While explosives have high pressure, in addition to endangering the perpetrators themselves, they also cause target fish, non-target fish and the environment to be damaged. Due to the high pressure of explosives. causing poor catch quality because the bones and internal organs of fish are generally broken and damaged, the meat is mushy and perishable. As per Article 84 Paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to Law of the Republic of Indonesia Number 31 of 2004 concerning Fisheries Any person who deliberately in the fisheries management area of the Republic of Indonesia carries out fishing and/or fish cultivation using chemicals, biological materials, explosives, tools and/or methods, and/or buildings that can harm and/or endanger the sustainability of fish resources and/or the environment as referred to in Article 8 paragraph (1), is sentenced to a maximum prison sentence of 6 (six) years and a maximum fine of Rp1,200,000,000.00 (one billion two hundred million rupiah).

The perpetrator has fished using explosives with the following evidence, 1 (one) jar containing explosive powder ± 150 grams, 1 (one) Yakult drink bottle, 1 (one) Oppo Reno 4 brand mobile phone unit in black, 1 (one) 1000 Watt Redfox brand generator unit in red, 5 (five) Luby brand lamps 38 Watt, 2 (two) 14.5 Watt Philips brand lamps, 2 (two) Sockets with cables, 1 (one) Luby brand flashlights, 1 (one) 5-liter jerry cans in white, 1 (one) Clear ice plastic packs, 2 (two) white plastic buckets, 1 (one) red and black ± 10 meter cable.<sup>8</sup>

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<sup>7</sup> Case File No. BP/08/VI/2021, Page 26, Indramayu District Attorney's Office, retrieved March 11, 2025

<sup>8</sup> Case File No. BP/08/VI/2021, Page 24, Indramayu District Attorney's Office, retrieved March 11, 2025

Illegal fishing (*illegal fishing*) refers to fishing activities that are carried out without a permit or contrary to the regulations that have been stipulated in the Law. These actions can include the use of fishing gear that damages aquatic ecosystems or fishing without official permits, which also fall under the category of illegal fishing. In the context of criminal law, there are unlawful acts, which are divided into objective criminal law and subjective criminal law. Criminalization is one of the steps taken by the state to change the behavior of prisoners, with the aim that they can return to society as better individuals.<sup>9</sup>

Based on the definition of Illegal Fishing, the act of fishing using explosives is included in the category of Illegal Fishing using explosives, because this activity violates state laws or international regulations. In terms of the classification of Illegal Fishing, there are four categories, namely:

1. Fishing without a permit.
2. Fishing with false permits.
3. Fishing with prohibited fishing gear.
4. Fishing with species that are not in accordance with the permit.

Of the four categories, fishing using explosives is included in the category of fishing with prohibited fishing gear, because the use of explosives has been prohibited in Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 article 8, Government Regulation Number 27 of 2021 concerning the Implementation of the Marine and Fisheries Sector article 43 paragraph (1), and Regulation of the Minister of Maritime Affairs and Fisheries Number 18 of 2021 concerning the Placement of Fishing Gear and Fishing Aids in the State Fisheries Management Area of the Republic of Indonesia and the High Seas and the Arrangement of Fishing Andon article 8 paragraph (1).<sup>10</sup>

Destructive fishing refers to the activity of catching fish using materials or tools that can damage marine ecosystems, such as explosives, toxic substances, and other fishing methods or equipment. One of the destructive fishing practices that occurs in Indonesia, especially in the Western Indonesia region, is the use of explosives (blast fishing). This method involves using bombs or explosives to catch fish quickly and in large quantities with less effort compared to conventional fishing techniques. The practice of fish bombing is carried out so

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<sup>9</sup> I Nyoman Rama Cahyadi Putra, I Nyoman Gede Sugiarta, Luh Putu Suryani, "*Sanctions Against Illegal Fishing in Indonesian Seas Carried Out by Foreign Ships*", *Journal of Legal Preferences*, Vol 2, Page 603, accessed 12 March 2025

<sup>10</sup> Aulia Atasya Hidayat, Dyah Setyorini, "*Juridical Study of Fishing Using Explosives (Case Study of Fishermen in Muara Angke North Jakarta)*", Vol 5, p. 1012, Retrieved March 12, 2025

that the fish caught does not come off, so fishermen only need to collect the dead fish. The purpose of using explosives when catching fish is to ensure that all affected fish die immediately and are easily collected by fishermen. Before bombing, fishermen will target the type and estimate the number of fish to be caught. The goal is to maximize catches. Fishermen selectively select specific areas and types of fish before detonating bombs, in hopes of getting a larger catch. However, this practice damages coral reefs, kills non-target marine life, and requires great cost and time to restore damaged marine ecosystems, and can even lead to extinction. Although effective, fish bombing causes significant environmental damage, such as the destruction of coral reefs, the death of marine organisms, and the long and costly process of ecosystem recovery. In fact, it can lead to the loss of certain species. In addition to damaging marine ecosystems, the use of explosives also has a negative impact on human health and harms fishermen and fish farmers. In addition to environmental damage, fish bombing also poses health problems for humans and economic losses for communities that depend on marine resources. This presentation shows that fish bombing damages fish resources and ecosystems, thereby hampering conservation efforts and protection of the marine environment. In short, fish bombing is a destructive practice that threatens the sustainability of marine resources and undermines environmental conservation efforts. Therefore, fishing activities with explosives must be stopped in order to preserve marine ecosystems and their environment. To maintain the sustainability of marine ecosystems, the practice of fish bombing must be completely stopped. Effective law enforcement, as stipulated in Article 84 paragraph (1) of the Fisheries Law, is very important to overcome the criminal act of fish bombing. The perpetrator can be sentenced to up to 6 years in prison and a fine of up to IDR 1,200,000,000.00. Efforts to eradicate fish bombing require strict law enforcement, based on the Fisheries Law, with the threat of imprisonment and significant fines for the perpetrators. The criminal sanctions are cumulative, meaning the perpetrators of the fish bombing can be subject to prison sentences and fines at the same time. The perpetrators of the fish bombing will not only be imprisoned, but will also have to pay a fine as a consequence of their actions.<sup>11</sup>

In the case of waters, the Ditpolairud has an important role to protect and supervise the waters. As the task carried out by the Directorate of Police, the task of Satpolairud is to carry out police functions in the waters, which includes sea patrols, coastal and aquatic community

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<sup>11</sup> Ayu Izza Elvany, "*Juridical Analysis of the Crime of Blast Fishing Committed by Small Fishermen*". Unissula Law Journal, Vol 37, Pages 17-19, Retrieved March 11, 2025

development, and search and rescue of accidents at sea (SAR). Satpolairud is led by the Head of Police who is responsible to the Chief of Police, and in carrying out daily duties is under the supervision of the Deputy Chief of Police. The Head of Polair is assisted by several heads of units/affairs who each have duties and functions, including:

1. Head of Operational Development Affairs (Kaur Binops).
2. Head of Administrative and Administrative Affairs (Kaur Mintu).
3. Head of Patrol Unit (Patrol Office).
4. Head of the Law Enforcement Unit (Kanit Gakkum).
5. Head of the Registration and Identification Unit (Kanit Regident).
6. Head of Ship Unit (Kanit Kaship).

Regarding the use of explosives (fish bombs) in fishing, this is a violation of the law because in addition to being able to damage marine life, it also causes damage to other habitats around it. The use of explosives in fishing activities has the potential to cause damage to vast coral reef ecosystems. This activity, which almost occurred in the entire waters of Baubau Bay, is a violation of the law that can be subject to criminal sanctions against the perpetrators.

Furthermore, Article 84 paragraph (1) (2004 Law) contains criminal threats for the perpetrators of fish bombing, which reads as follows:

"Every person who deliberately in the fisheries area of the Republic of Indonesia carries out fishing and/or fish cultivation using chemicals, explosives, and/or tools that can harm fish and their environment as referred to in Article 8 paragraph (1) shall be sentenced to a maximum of 6 (six) years in prison and a maximum fine of Rp. 1,200,000,000.00 (one billion two hundred million Rupiah)."<sup>12</sup>

The use of chemicals, organic substances, explosives, equipment, or methods that can damage or endanger the protection of fish resources and their ecosystems, not only kills fish directly, but also poses a risk to human health and harms fishermen and fish farmers. The losses caused by the use of these materials can take a long time to recover, and are even likely to result in extinction. The factors that cause this crime include:

1. Individual psychological factors, such as uncontrolled emotions, low mentality, or the urge to take revenge, that drive a person to commit crimes together.

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<sup>12</sup> Samaluddin, Afdal Rahmat Slamet, *"The Role of the Satpolairud Law Enforcement Unit on the Crime of Using Fish Bombs by Fishermen in the Sea Waters of Baubau Bay"*, Journal of Law Kanturuna Walio, Vol 4, Issue 2, Pages 87-88, Retrieved March 12, 2025  
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2. Lack of public awareness, which is also the cause of hate speech crimes, especially insults on social media. The lack of socialization or education about regulations that regulate hate speech makes some people not understand this.
3. Facilities and infrastructure factors, such as globalization technology that continues to develop, including digital media and the Internet, accelerate the dissemination of information. This makes individuals often unwise in using the Internet or social media platforms without clear limits.<sup>13</sup>

After examining witnesses and evidence, it was determined that an alleged criminal act occurred in the waters of Cantigi in Indramayu Regency.

**From the results of the juridical analysis, it was found that :**

- a. Article 1 paragraph (1) of Emergency Law Number 12 of 1951 concerning Explosives and Fire Emblems, that whoever without the right to import, make, receive, attempt to acquire, submit, load, carry, have supplies, or have in his possession, store, transport, hide, use, remove from Indonesia any firearm, ammunition or an explosive, shall be punished with the death penalty or life imprisonment or imprisonment maximum of 20 years.
  - Who
  - Namely the existence of KRISNA ANGGORO Bin SUGIH who fished using explosives.
  - Whoever without the right to enter into Indonesia makes, receives, attempts to acquire, surrender or attempts to surrender, possess, carry, have supplies to him or possess in his possession, keep, transport, conceal, use, or take out from Indonesia any firearm, ammunition or explosive substance, shall be punished with the death penalty or life imprisonment or a term of imprisonment for a maximum of twenty years. That KRISNA ANGGORO Bin SUGIH obtained, had supplies for him, stored and used explosives to carry out fishing.
- b. Article 84 Paragraph 1 of Law Number 45 of 2009 concerning Amendments to Law Number 31 of 2004 concerning Fisheries which reads that every person who deliberately in the fisheries management area of the Republic of Indonesia deliberately fishes or fish cultivation using chemicals, biological materials, explosives, tools or methods, or buildings

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<sup>13</sup> Bella Cahya Ningrum, I ketut Siregig, Suta Ramadan, *"Juridical Analysis of the Use of Bombs in Fishing in the Sea Waters of Sebuku Island, South Lampung Regency"*, Iblam Law Review, Vol 2, Pages 78-79, Retrieved March 11, 2025

that can harm or endanger the sustainability of fish resources and their environment as referred to in Article 8 Paragraph 1 of the criminal law with a maximum prison sentence of 6 years and a maximum fine of Rp ; 1,200,000,000 (one billion two hundred million rupiah).

- Everyone
- Namely the existence of KRISNA ANGGORO Bin SUGIH who fished using explosives
- Which is deliberately in the fisheries management area of the Republic of Indonesia.
- That KRISNA ANGGORO Bin SUGIH carried out fishing using explosives in the Cantigi Waters area of Indramayu Regency.
- Fishing and/or fish cultivation using chemicals, biological materials, explosives, tools and/or methods, and/or buildings that can harm and/or endanger the sustainability of fish resources and/or the environment

That KRISNA ANGGORO Bin SUGIH fished using explosives by rafting first, then the explosives were put into the used Yakult drink bottles and then connected using fiber cables, then the bottles that were connected to the cable were thrown into the water and then the other end of the cable was connected to the battery/condensed and then exploded.<sup>14</sup>

This is also in line with Article 84 paragraph (1) of Law Number 45 of 2009 concerning amendments to Law Number 31 of 2004 concerning Fisheries, the use of toxic hazardous materials in the fishing process is a problem in the process of utilizing fishery resources where this action can damage the marine ecosystem. The use of toxic hazardous substances in the fishing process aims to make it easier for fishermen to catch and catch fish, but does not pay attention to the aspects of sustainability and survival of marine ecosystems.<sup>15</sup>

From the results of the examination of the testimony of witnesses and experts which are evidence as described in article 184 of the Criminal Code and then corroborated with evidence, the Investigator/Assistant Investigator can conclude by paying attention to the analysis and juridical as follows:

1. According to the information from the witnesses from the results of the examination of the suspect a.n KRISNA ANGGORO Bin SUGIH, 55 (five) LED lights, 1 (one) generator unit,

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<sup>14</sup> Case File No. BP/08/VI/2021, Pages 26-27, Indramayu District Attorney's Office, accessed March 11, 2025

<sup>15</sup> Oktovianus Kelfin Tully, Jimmy Pello, Bhisu V. Wilhelmus, *Juridical Analysis of Criminal Liability for Perpetrators of Fishing with Toxic Hazardous Materials (Decision Study: Number: 239/Pid.Sus/2020/PN Kpg)*", Vol 1, Pages 231-240. Retrieved March 11, 2025

- 4 (four) liters of gasoline, ±15 (fifteen) meters of cable, 2 (two) plastic buckets, 2 (two) sets of electrical terminals/electrical plugs and ±100 grams of explosives used for fishing.
- 2 According to the Expert's statement that your. KRISNA ANGGORO Bin SUGIH is wrong, has carried out fishing using explosives that are prohibited according to the provisions of laws and regulations and has fulfilled the elements in Article 84 Paragraph (1) of Law of the Republic of Indonesia Number 45 of 2009 concerning amendments to the Law of the Republic of Indonesia Number 31 of 2004 concerning fisheries.
3. According to the information of the Expert JIBOM SUBDEN II DEGASEMEN GEGANA SAT BRIMOBDA POLDA JABAR explained Mr. KRISNA has carried out fishing using explosives without a permit which is prohibited according to the provisions of laws and regulations and has fulfilled the elements in Article 1 Paragraph (1) of Emergency Law No. 12 of 1951 concerning Explosives and Fire Retardants
4. According to the results of the Forensic Laboratory Test of the Criminal Investigation Center of the National Police on the evidence of gray powder used by the suspect. KRISNA is a mixture of flash powder explosives consisting of chemical compounds Potassium Chlorate (KClO<sub>3</sub>), Sulfur (S), and Aluminum (Al), which are low explosives.

## CONCLUSION

In the case of fishing in the use of explosives in the waters of Cantigi, Indramayu Regency, as stated in the case number of LP. A/52/V/2021/SPKT. KOPOLAIRUD/BAHAKAMPOLRI, that the perpetrator, Krisna Anggoro, was proven to have violated Article 1 Paragraph (1) of Emergency Law Number 12 of 1951 concerning Explosives and Firearms and or Article 84 Paragraph (1) of Law No. 45 of 2009 concerning amendments to Law No. 31 of 2004 concerning Fisheries, as well as the policy related to the prohibition of the use of bombs (explosive chemicals) in fishing activities contained in Law Article 84 Paragraph 1 of 2009 of the perpetrator, Krisna Anggoro, has committed a criminal act and can be included in the category of *illegal fishing* using explosive bombs. The actions carried out by the perpetrator, Krisna Anggoro, are categorized as *illegal fishing* because they use methods that are not only unlawful, but also endanger the balance of the environment and the livelihoods of other fishermen.

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