



ISSN 2809-672X (Online)

YURIS (Journal of Court and Justice)

<https://journal.jfpublisher.com/index.php/jcj>

Vol. 2 Issue. 2 (2023)

doi.org/10.56943/jcj.v2i2.357

**Legal Analysis of Witness Testimonium De Auditu's Position on
Decision No. 115/Pid.Sus/2021/PN.Ktg
Case Study on Constitutional Court Decision No. 65/PUU-VIII/2010**

Adelina Mbewa^{1*}, Wahyu Tris Haryadi²

¹adelinambewa158@gmail.com, ²triswahyu@gmail.com

Universitas Bhayangkara Surabaya

*Corresponding Author: Adelina Mbewa

Email: adelinambewa158@gmail.com

ABSTRACT

Testimonium de auditu has not been accepted as evidence under the Criminal Procedure Code because its authenticity has not been tested. Under the Constitutional Court's decision No.65/PUU-VIII/2010, testimonium de auditu is considered as evidence, and can be used in both criminal and civil cases. Therefore, this research is conducted to determine the witness's position in the trial and verdict Number 115/Pid.Sus/2021/PN.Ktg. The case study of Kotamobagu District Court Decision Number 115/Pid.Sus/2021/PN.Ktg and Law No. 8/1981 on the Criminal Procedure Code become the basis of normative legal research methodology in this research, which also used primary and secondary sources. The findings of this research indicate that in Constitutional Court Decision No.65/PUU-VIII/2010, law enforcers should agree that witnesses who actually see, hear, or suffer a criminal event are not always required. On the other hand, Testimonium de Auditu witnesses cannot be used as independent witnesses in the case of Decision No. 115/Pid.Sus/2021/PN.Ktg because it does not include the requirements of the witnesses required.

Keywords: Court Decision, Testimonium De Auditu, Witness

INTRODUCTION

According to the Indonesian Constitution, witness testimony, expert testimony, letters, instructions, and the testimony of the accused are all valid evidence. The examination of audit witnesses, or those who see, hear, and experience criminal offences, is one of the components of the justice system in Indonesia. *Testimonium de auditu* is one example of a witness in law that can be defined as a testimony or statement after hearing the testimony of other people. *Testimonium de auditu* was first evaluated in 1959.¹

Testimonium de auditu cannot be used as direct evidence, as stated in the Supreme Court Decision issued on 11 November 1959 Number 308/K/Sip/1959.² However, this testimony can be used as evidence (criminal), evidence (civil), or evidence to prove a fact.³ Because the *testimonium de auditu* is considered as evidence (civil) or evidence (criminal), the same approach is used in this case. In Indonesia, de auditu witnesses have not been regulated as witnesses in criminal or civil cases. The Indonesian Constitutional Court established a new law in the 1945 Constitution of the Republic Indonesia that recognises *testimonium de auditu* as evidence. The decision expanded the concept of witness and witness testimony in Criminal Procedure Code Article 1 points 26 and 27.

In general, *testimonium de auditu* is not recognised as evidence under Criminal Procedure Code because its authenticity cannot be proven. However, based on the Constitutional Court Decision Number 65/PUU-VIII/2010, *testimonium de auditu* qualifies as evidence of instructions and can be used in criminal and civil cases. If the judgement issued by the Constitutional Court appears to reject its legal position or offer new legislation, then it will have an impact on Indonesia's current criminal law system. According to legal provisions and expert doctrine, a witness must be a person who sees and hears a criminal offence.

After the Constitutional Court's decision, witness testimony in *testimonium de auditu* before the court that is not regulated in the Criminal Procedure Code is considered as evidence in the case.⁴ When the Constitutional Court recognised *testimonium de auditu* witnesses, its decision excluded the use of these witnesses as valid evidence.⁵ Since witness testimony is considered binding evidence, the law must be applied effectively in the investigation, trial and court processes. Based on

¹ Tim Redaksi BIP, *3 Kitab Undang-Undang : KUHPer Kitab Undang-Undang Hukum Perdata, KUHP Kitab Undang-Undang Hukum Pidana, KUHP Kitab Undang-Undang Hukum Acara Pidana Beserta Penjasannya*, ed. Saptono Rahardjo (Jakarta: Bhuana Ilmu Populer, 2017).

² Abdul Kadir, *Hukum Acara Perdata Indonesia* (Bandung: PT Citra Aditya Bhakti, 2015).

³ Munir Fuady, *Teori Hukum Pembuktian Pidana Dan Perdata* (Bandung: PT Citra Aditya Bhakti, 2020).

⁴ Filzah Arina Putri and Ahmad Mahyani, "Keterangan Testimonium de Auditus Yang Dijadikan Sebagai Alat Bukti Dalam Penjatuhan Putusan Hakim," *Jurnal Untag Surabaya* (2023).

⁵ Mardalena Hanifah, "Kajian Yuridis : Mediasi Sebagai Alternatif Penyelesaian Sengketa Perdata Di Pengadilan," *Jurnal Hukum Acara Perdata ADHAPER* 2, no. 1 (2016): 1–13, <https://jhaper.org/index.php/JHAPER/article/view/21/28>.

this background, the objective of this research is to determine the effect of Constitutional Court Decision Number 65/PUU-VIII/2010 on the constitutionality of *testimonium de auditu* as evidence of witness testimony. Furthermore, the legal analysis of Decision Number 115/Pid.Sus/2021/PN.Ktg which has not considered the decision.

RESEARCH METHODOLOGY

This research used normative legal research method, which is research on laws or regulations that have legal authority. The normative juridical approach refers to the application of an approach that examines only the relationship between norms in a systematic or logical manner.⁶ In general, the normative juridical method approaches the problem from the perspective of social effects and the formation of legal norms, rather than the norm maker itself, which indicates the importance of the society's background.⁷

This research used normative legal approaches based on Law No. 8/1981 concerning the Criminal Procedure Code and a case study of Kotamobagu District Court Decision Number 115/Pid.Sus/2021/PN.Ktg. The decision emphasised the rule of law by evaluating significant social facts to be researched. Legal primary sources used are the 1945 Constitution of the Republic Indonesia, laws, government regulations, presidential regulations, and court decisions that have legal authority used in this research. Literature related to the research topic, such as articles, books, journals, and online references, constitute additional as legal secondary sources.

RESULT AND DISCUSSION

The Legal Position of Testimonium De Auditum Witnesses in the Criminal Justice Process at the Court

Definition of Evidence in Criminal Procedures

Criminal law seeks concrete truth; evidence serves as the basis for criminal procedure.⁸ The various aspects of this evidence are as follows:

1. List the evidence sources used by the court to make decisions about previous incidents (opsomming van bewijsmiddelen),
2. An explanation of the way that evidence is used in court (bewijjoering), and
3. Credibility of evidence on each evidence (bewijskracht deer bewijsmiddelen).

⁶ Muhammad Rizaldi Hendriawan, "Politics of Criminal Law Liability of Corporate Criminal in Indonesia," *YURIS (Journal of Court and Justice)* 1, no. 1 (2022).

⁷ Munir Dr. Fuady, *Metode Riset Hukum : Pendekatan Teori Dan Konsep* (Depok: Rajawali Pers, 2018).

⁸ Eddy O.S. Hiariej and Yayat Sri Hayati, *Teori Dan Hukum Pembuktian* (Jakarta: Erlangga, 2012).

The term evidentiary system is defined in the Criminal Procedure Code. The evidentiary process is determined by the types of evidence allowed by law, the way courts are required to apply that evidence, and how the judge must decide whether the accused is guilty in the case.

Definition of Testimonium De Auditum Witnesses

Munir Fuady defines hearsay as testimony provided by a witness in front of the court to prove the truth of a fact, even though the witness did not experience, hear, or see the fact himself.⁹ According to the explanation of Article 185 Paragraph 1 of the Criminal Procedure Code, information obtained from other people or *testimonium de auditum* cannot be included in witness testimony. *Testimonium de auditum* or hearsay evidence cannot be applied in Indonesia, according to Article 185 Paragraph 1, because the purpose of criminal procedure law is to defend human rights and seek material truth. *Testimonium de auditum* must still be heard by the judge, although it cannot be used as evidence, but the testimony can strengthen the judge's confidence based on other evidence.¹⁰

The Position of Testimonium De Auditum Witnesses in the Criminal Justice Process in Court

Considering that the Criminal Procedure Code does not provide for the regulation of witnesses in general, the specific provisions regarding *testimonium de auditum* in court, and the conditions under these provisions, are still problematic. Experts consider that provisions 1 points 26 and 27 of the Criminal Procedure Code contradict Article 65 and a combination of Article 116 Paragraphs (3) and (4). According to Article 65 of the Criminal Procedure Code, "the suspect or accused has the right to support his claim with evidence, present witnesses, and/or retain experts to provide testimony in his favour."

Constitutional Court Decision Number 65/PUU-VIII/2010 expands the concept of witnesses regulated in Criminal Procedure Code Article 1 point 26 Article 184 Paragraph (1) Letter a.¹¹ The Constitutional Court Decision expands the definition of a witness by stating that a witness as evidence is a statement from a witness about a criminal incident that he or she has personally heard, seen, and experienced by stating the reason for his or her knowledge. It includes testimony in the investigation, prosecution, and trial that is not heard, seen, and experienced by the witness.

This decision contains both declarative and constitutive judgements. Therefore, Articles 1 points 26 and 27 of the Criminal Procedure Code which stipulate that a person who sees, hears, or experiences a case cannot be considered

⁹ Yanelis Garsione Damanik, "Keterangan Saksi Testimonium de Auditum Sebagai Alat Bukti Dalam Perspektif Pembaharuan Hukum Acara Pidana Indonesia," *Brawijaya Law Student Journal* (2015).

¹⁰ Rusli Muhammad, *Pembaharuan Hukum Pidana Indonesia* (Yogyakarta: UII Press, 2019).

¹¹ Asprianti Wangke, "Kedudukan Saksi De Auditum Dalam Praktik Peradilan Menurut Hukum Acara Pidana," *Lex Crimen* 6, no. 6 (2017): 146–154.

as a witness because the Constitutional Court's decision has permanent legal force, become invalid. The juridical consequences of the Constitutional Court Decision No. 65/PUU-VIII/2010 expand witness testimony on criminal offences that are heard, seen, and experienced. Therefore, *testimonium de auditu* witness testimony can be used as direct evidence in court and not only as a clue.

Legal Analysis of Decision Number 115/Pid.Sus/2021/PN.Ktg

On Thursday, 11 March 2021 around 6.30 a.m at Lorong Kemuning RT 02, Gogagoman, Kotamobagu Barat, Kotamobagu, the defendant named Noval Takaclu Aldias Oval committed the crime of intentionally unlawfully forcing another person to do or not to do something, by using violence or by threatening violence against the witness/victim named Jemi Takaleu Aldias Opo by yelling out the words "next time I see you, I'll kill you!" to the witness/victim named Jemi Takaleu Aldias Oval.

The chronology of this incident began when the witness/victim Jemi Takaleu Aldias Opo explained that the defendant's mother had passed away, so the defendant did not have the right to live at the home of the defendant's grandmother. The reason for this was because the witness/victim and the defendant had a disagreement, and the defendant was angry because the witness scolded and prohibited the defendant from bringing his friends to the aforementioned house. It all started on Thursday, 11 March 2021, around 6.30am, the witness/victim named Jemi Takaclu Aldias Opo was at home. The witness/victim heard the defendant Noval Takaclu Aldias Oval say something and mention the name of the witness/victim. In response, the witness/victim's sibling came out of the house to reprimand the defendant and the witness/victim followed her. The defendant then saw the witness/victim shouting and took a knife from the roof of a hut in front of the witness/victim's house. The defendant approached the witness/victim and shouted, "I will kill you!" while pointing the knife at her. Because the situation was dangerous, the witness/victim's siblings grabbed the defendant and pulled him away from the witness/victim. The defendant then forcefully approached the witness/victim and challenged the witness/victim to a fight because he was not satisfied. The witness/victim remained silent because they were related. The defendant then said, "I will kill you, I will mutilate you!"

The defendant was prosecuted by the public prosecutor and charged pursuant to an indictment drawn up in an alternative charge, such as the defendant did not have permission from the competent authority to own the sharp weapon. Whereas the defendant Noval Takaclu Aldias Oval has committed an act prohibited by Emergency Law No.12/1951 Article 2(1) and is punishable with a penalty. The alleged incident occurred because the witness/victim and the defendant had a previous disagreement, and the defendant may have been angry because the witness scolded and prohibited the defendant from taking his friends home. When the threat occurred, the witness was standing approximately one metre away from the

defendant. Furthermore, the witness/victim felt threatened and frightened, so she reported the matter to the authorities. The act of Noval Takaclu Aldias Oval as regulated and punishable under Article 335 Paragraph (1) to 1 of the Indonesian Penal Code.¹²

Public Prosecutor's Indictment

The following are some of the public prosecutor's indictments on Decision Number 115/Pid.Sus/2021/PN.Ktg:

1. Stating that the defendant Noval Takaclu Aldias Oval has been proved legally and convinced guilty of committing the crime of whoever unlawfully forces another person to do or allow something, by using physical force, either against himself or against another person, as regulated and punishable under Article 335 Paragraph (1) to 1 of the Penal Code in the second charge of the Public Prosecutor;
2. Noval Takaclu Aldias Oval was sentenced to 4 (four) months imprisonment, minus the period during which he has been in temporary detention, with the order that the defendant remain in detention;
3. A stabbing knife with a wood handle that is approximately 24 cm (twenty four centimeters) long and 1.5 cm (one point five millimeters) wide. (deprived to be destroyed);
4. Stipulate that the defendant Noval Takaclu Aldias Oval should pay compensation of IDR 5,000 (five thousand rupiah).

District Court Decision Number 115/Pid.Sus/2021/PN. Ktg

The following are several decisions of District Court Decision Number 115/Pid.Sus/2021/PN.Ktg:

1. Stating that the defendant Noval Takaclu Aldias Oval in the first and second alternative indictments was not proved legally and convinced guilty of committing the crime;
2. Therefore, the Defendant is acquitted of the entire indictment of the public prosecutor;
3. Instructing the defendant to be discharged from custody immediately upon the pronouncement of this judgement;
4. Restore the rights of the Defendant in his ability, dignity and honour;
5. Set out the evidence, such as a folding knife with a wooden handle about the length of 24 cm and the width of 1.5 cm, and a black duct-taped cardboard sheath; then returned to the Defendant;
6. Charge the costs of prosecution to the State.

¹² Fakultas Hukum Universitas Udayana, *Buku Ajar Hukum Pidana* (Bali: Universitas Udayana, 2016), https://simdos.unud.ac.id/uploads/file_pondidikan_1_dir/424c6f6b9a703073876706bc9793eeda.pdf.

Constitutional Court Decision No. 65/PUU-VIII/2010**Opinion of the Court**

There are the main arguments of the petition based on the opinion of the Court such following below:

1. Considering that the main petition of the Plaintiffs is an examination of Article 1 Paragraph 26 and Article 27 of the Criminal Procedure Code against the 1945 Constitution, Article 65, Article 116 Paragraphs (3) and (4), and Article 184 Paragraph (1) letter A of the Criminal Procedure Code.
2. Considering that based on the petition of the Applicant, the statement of the government, the statement of the House of Representatives, and the facts of the trial, legal issues that must be considered by the Court, such as (1) the definition of a witness; (2) the request to submit witnesses by suspects and defendants; (3) the summoning of witnesses; and (4) the authority to evaluate the value of testimony.
3. Considering that criminal procedure law combines the legal interests of the individual, society, and the state because the individual and society are directly confronted with the state, and this relationship weakens the individual and society. In this case, the law of criminal procedure limits the state authority used by investigators, prosecutors, and judges during the criminal justice process against individuals and society, especially the accused involved in the case.
4. Although a person has been declared as a defendant or suspect, their human rights are not lost. Therefore, in a nation of law, criminal procedure law is positioned as a tool to ensure the fair implementation of due process of law in order to respect human rights. It involves ensuring that state officials do not behave arbitrarily, providing guarantees for defendants and accused persons to defend themselves fully, applying the presumption of innocence, and ensuring that all persons have an equal opportunity to be judged.
5. Considering the definition of "witness" as intended by Article 1 point 26 and point 27 in conjunction with Article 65, Article 116 Paragraph (3) and Paragraph (4), and Article 184 Paragraph (1) letter a of the Criminal Procedure Code, a person who can provide information about a criminal offence that he hears, sees, and experiences himself for the benefit of the investigation, In short, the Court decided that a witness, according to the Criminal Procedure Code, is only a person who hears, sees, and experiences the case mentioned or charged.
6. According to the Court, by adhering to Article 1 points 26 and 27 of the Criminal Procedure Code alone, the meaning of Article 65 of the Criminal Procedure Code regarding favourable witnesses cannot be

interpreted narrowly. As explained in Article 1 points 26 and 27 of the Criminal Procedure Code, the notion of witness precludes or even provides an opportunity for the defendant or suspect to present witnesses who are beneficial to him. Because the term hears himself, he sees himself, and he experiences himself requires that only witnesses who hear, see, and experience the criminal case themselves can be submitted as useful witnesses. However, the purpose of proving a suspect or indictment is not only to prove whether the suspect or defendant actually committed or was involved in a particular criminal offence, but also to prove that the criminal offence actually occurred. Alibi witnesses are crucial in proving whether a crime or offence actually occurred and whether the accused actually committed or was involved in the crime. This applies even if the witness did not hear, see, or experience the intended criminal offence.

7. The use of Article 1 points 26 and 27 of the Criminal Procedure Code do not incorporate alibi witnesses; they also do not include other witnesses who may assist the suspect or accused such as witnesses whose testimony is required to corroborate the testimony of previous witnesses.
8. Therefore, according to the Court, the fact that the witness saw, heard, or experienced a criminal event is not the most important thing; it is more important to understand the significance of his testimony in relation to the criminal case being discussed.

Court Decision

1. Allow some of the petitions of the Plaintiffs.
2. Stating that Article 1 points 26 and 27; Article 65; Article 116 Paragraphs (3) and (4); and Article 184 Paragraph (1) letter a of Law No. 8/1981 on Criminal Procedure (State Gazette of the Republic of Indonesia No. 76/1981 and Supplement to State Gazette of the Republic of Indonesia No. 3209) are contrary to the 1945 Constitution of the Republic of Indonesia to the extent that the definition of witness in Article 1 points 26 and 27; Article 65; Article 116 Paragraphs (3) and (4); Article 184 Paragraph (1) letter a of Law No. 8/1981 on Criminal Procedure (State Gazette of the Republic of Indonesia No. 76/1981 and Supplement to State Gazette of the Republic of Indonesia No. 3209), is not interpreted to include “a person who can provide information for the investigation, prosecution, and trial of a criminal case that he does not always hear himself, see himself and experience himself.”
3. Stating that Article 1 point 26 and point 27; Article 65; Article 116 Paragraph (3) and Paragraph (4); and Article 184 paragraph (1) letter a of Law No. 8/1981 on Criminal Procedure (State Gazette of the Republic of Indonesia No. 76/1981 and Supplement to State Gazette of the

Republic of Indonesia No. 3209) do not have binding legal force to the extent that the definition of witness in Article 1 point 26 and point 27; Article 65; Article 116 Paragraph (3) and Paragraph (4); Article 184 Paragraph (1) letter a of Law No. 8/1981 on Criminal Procedure (State Gazette of the Republic of Indonesia No. 76/1981 and Supplement to State Gazette of the Republic of Indonesia No. 3209), is not interpreted to include "a person who can provide testimony at the point of investigation, prosecution, and trial of a criminal offence that he or she did not always hear, see, and experience himself."

4. Instructing the publication of this judgement in the State Gazette of the Republic of Indonesia as appropriate.
5. Refuse the Plaintiff's request for other than and the rest

A Case Analysis of Court Decision No.115/Pid.Sus/ 2021/PN.Ktg which Disregards Constitutional Court Decision No.65/PUU-VIII/2010

Based on the decision of Judges who examined and tried a criminal case on behalf of the defendant Noval Takaclu Aldias Oval in the jurisdiction of the Kotamobagu District Court with case register Number 115/Pid.Sus/2021/PN.Ktg. The Public Prosecutor has summoned the victim witness Jemi Takaclu and the witness Melki Takaclu legally and properly as stated in the Witness Summons Number: B-58/P.1.12/Eoh.2/5/2021 dated 4 May 2021; Witness Summons Number: B- 61/P.1.12/Eoh.2 /5/2021 dated 11 May 2021; and Witness Summons Number: B-63/P.1.12/Eoh.2/5/2021 dated 17 May 2021. The letter has been received directly by the person concerned, however, even though they have been legally and properly summoned, the witnesses did not attend the trial without a valid reason. The Judges then issued Stipulation Number: 115/Pid.Sus/2021/PN.Ktg dated 31 May 2021 to summon the witnesses to appear in court in accordance with Article 159 Paragraph (2) of the Criminal Procedure Code, but the witnesses still did not appear.

The prosecutor asked the Judges to read out the testimonies of the witnesses during the trial. Unfortunately, the Judges refused to grant the prosecutor's request because the absence of witnesses during the trial is not regulated in Article 162 Paragraph (1) of the Criminal Procedure Code. One witness and the testimony of the defendant were the only evidence presented by the public prosecutor during the trial. The defendant admitted that he had a knife with a wooden handle. When the victim Jemi Takaclu and the defendant were standing and confronting each other, the defendant shouted "if you see me again, I will kill you!" while holding the knife. When the defendant's uncle Melki Takaclu arrived, he immediately grabbed the knife that the defendant was holding. The defendant then immediately ran away.

Considering that Article 189 Paragraph (4) of the Criminal Procedure Code states that "the statement of the accused is not sufficient to prove that he has committed the criminal offence charged against him, but must be supported by other

evidence,” it can be concluded that the defendant supported the charges of the public prosecutor and admitted the acts he was accused of. However, the confession of the defendant is not sufficient to prove his guilt, it must be supported by other evidence such as witnesses, letters, experts or other evidence.

The public prosecutor presented one witness who was examined, Mr. Risto A. Mokodompit. The witness stated that when the witness went to the location of the crime, the neighbours said that the Defendant had returned home. The witness then looked for the Defendant and saw the Defendant sleeping on the sofa. The witness questioned the Defendant while he was asleep, and the Defendant answered that he committed these acts because the victim reprimanded him and made him angry. This indicates that the Defendant admitted his actions outside of court. However, in accordance with Article 189 Paragraph (2), the statement of the defendant provided outside the trial can assist in obtaining evidence at trial if it is supported by strong evidence relating to the criminal offence charged. Therefore, the confession of the defendant made outside the trial must be corroborated by additional evidence. Although the definition of witness was expanded in Constitutional Court Decision No. 65/PUU-VIII/2010 dated 8 August 2012 to include a person who can provide information in the process of investigation, prosecution, and examination in court about a criminal event that cannot be heard, seen, and experienced by himself, the Panel of Judges was of the opinion that the witness presented by the Public Prosecutor was a *testimonium de auditu* witness.

Based on the aforementioned, the researcher is of the opinion that the judge's previous decision stating that fact witnesses or eyewitnesses who were physically at the scene of the crime but did not want to attend the trial were wrong. The testimony of Risto A. Mokodompit as a *testimonium de auditu* witness cannot be used as an independent witness because it does not include the required witness qualifications. In addition, the decision of the Constitutional Court No. 65/PUU-VIII/2010 shows that Articles 1 points 26 and 27 of Criminal Procedure Code have been expanded in a way, such as by considering the factors mentioned above, the Constitutional Court decided that Articles 1 points 26 and 27; 65; Article 116 Paragraphs (3) and (4); and Article 184 Paragraph (1) letter a of Criminal Procedure Code are contrary to the 1945 Constitution in the sense that witnesses in these articles are not entitled to trial by jury. Witnesses who cannot provide testimony in the process of investigation, prosecution, and trial about criminal offences that are not always heard, seen, or experienced by themselves are not considered as people who can provide testimony in the process of investigation, prosecution, and trial. All other petitions have no legal basis.

Based on previous Constitutional Court decisions stating that a person who can provide information in the process of investigation, prosecution, and examination in court about a criminal event cannot always be heard, seen, and experienced by himself, the definition of witness in Article 1 points 26 and 27 of Criminal Procedure Code is expanded. Based on Constitutional Court Decision

Number 65/PUU-VIII/2010, de auditu witness testimony from the prosecution must be accepted and considered by the panel of judges because it is related to the criminal event charged and in accordance with the defendant's testimony. The decision of the Constitutional Court is final in accordance with Article 24C Paragraph (1) of the 1945 Constitution of the Republic of Indonesia. The Constitutional Court Decision has permanent legal force since it was read out in a Constitutional Court trial, cannot be changed and must be implemented by all components of the state, including law enforcement, government officials and citizens. Witnesses are now eligible to testify under Article 1 points 26 and 27 of Criminal Procedure Code and can provide convincing testimony as a result of Constitutional Court Decision No. 65/PUU-VIII/2010.

CONCLUSION

Testimonium de auditu is testimony or a statement provided after hearing the statement of other person. *Testimonium de auditu* was first tested in 1959. The Supreme Court ruled in Decision Number 308/K/Sip/1959 on 11 November 1959, that *testimonium de auditu* could not be submitted as direct evidence. The Constitutional Court's decision is final in accordance with the rules outlined in Paragraph (1) of Article 24 C of the 1945 Constitution. It indicates that the decision of the Constitutional Court can be implemented by the entire government, law enforcement, and citizens because it was read out in a Constitutional Court trial. The findings of this research indicate that under Constitutional Court Decision No.65/PUU-VIII/2010, law enforcement officials must agree that the witnesses needed are not always those who saw, heard, or experienced the criminal event themselves. On the other hand, witnesses are still needed in the case being handled. According to Case Decision Number 115/Pid.Sus/2021/PN.Ktg because the *testimonium de auditu* witness does not have the necessary witness credentials, it cannot be used as an independent witness.

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