

Legal Due To The Business Fields Of The Limited Company That Are Not Integrated With Online Single Submission

(A Research in Banda Aceh City Area)

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Abstract

Limited "Liability Company is the most popular form of business. To run a Limited Liability Company, a clear line of business is needed. The list of business fields in the company is now based on the standard classification of Indonesian business fields or KBLI 2020, because companies that previously used the 2015 KBLI had to adjust the Articles of Association first and the articles of association were notified to the Minister of Law and Human Rights through a notary using the AHU Online application. AHU Online is an electronic-based legal service organized by the Directorate General of General Legal Administration and has been integrated with the Online Single Submission or OSS which is an electronic licensing service. However, it turns out that there are business fields that have been registered with online AHU that are not integrated with OSS. This type of research is empirical juridical, with a legal approach (sculpture approach), and a conceptual approach (conceptual approach). The legal materials used in this study consist of primary, secondary, and tertiary legal materials. The location of this research is in the city of Banda Aceh. The results of the study indicate that the legal consequences of" a business field that is not integrated with OSS is that the business field cannot be run, because it cannot obtain a business license, so the company cannot run a business, which fulfills the absolute requirements that must be met to carry out business activities

Keywords: *Limited Liability Company, AHU Online, Online Single Submission.*

INTRODUCTION

Limited Liability Company or PT is one form of business that has a lot of demand in Indonesia. Because the PT has a clear share ownership system, and the PT is a form of business that is a legal entity. This is as stated in the Law of the Republic of Indonesia Number 40 of 2007 concerning Limited Liability Companies or the 2007 Limited Liability Company Law. Limited Liability Company is a legal entity that is a capital partnership, established based on an agreement, conducting business activities with authorized capital which is entirely divided into shares and fulfills the requirements set forth in the law. stipulated in this Law and its implementing regulations.

The position of "the Limited Liability Company as a legal entity is solely determined by ratification as a legal entity granted by the Ministry of Law and Human Rights and since then the Limited Liability Company has become a legal subject capable of supporting the rights and obligations of being independently responsible for all consequences arising from legal actions that have been "done" (Agus, 2002). According to "H.M.N. Purwosutjipto, Limited Liability Company is a partnership in the form of a legal entity. This legal entity" is not called a "partnership", but a "company", because the capital of the legal entity consists of holdings or shares owned by the founder of the limited liability company. (Purwosutjipto, 1979). "M.H. Tirta Amidjaja stated that a Limited Liability Company is a company established to run a company with a certain capital, which is divided into shares and each Persero/shareholder participates in it as many as one share or more with no responsibility alone for approvals. the company's approval (Amidjaja, 1956).

Ratification of "the establishment of a Limited Liability Company will not take much longer, this is because there are electronic-based legal services that make it easier for business actors or limited liability companies and notaries. The Directorate General of General Legal Administration, which is the implementing element in the Indonesian Ministry of Law and Human Rights in charge of carrying out the formulation and implementation of policies in the field of General Legal Administration (AHU) services in accordance with the provisions of laws and regulations, issues administrative services issued by the Ministry of Law and Human Rights. Indonesian Human Rights called AHU or AHU Online. The presence of AHU Online "is a reference for business actors in their activities and in the process of establishing and changing Limited Liability Companies, where the notary has a dominant role in the legality of Limited Liability Companies specifically with regard to the establishment or change of Limited Liability Companies and their legal effectiveness in society as well as the responsibilities borne by the community." notary in carrying out its "role" (Salim, 2020).

The purpose of "the issuance of an online AHU service that prioritizes professional, fast, precise, efficient, and inexpensive services is none other than to avoid illegal levies. The online AHU does not only function as legal entity ratification, but also serves to amend the articles of association of legal entities in this case Limited Liability Companies. This AHU Online has also been adapted to the Standard Classification of Indonesian Business Fields or abbreviated as KBLI as stated in the Central Statistics Agency Regulation Number 2 of 2020 concerning the Standard Classification of Indonesian Business Fields (KBLI 2020). KBLI is a reference classification used to classify Indonesian economic activities/activities into several business fields/business fields which are differentiated based on the type of economic activity that produces products/outputs in the form of goods and services.

The existence of the Indonesian Standard Classification of Business Fields is a formulation of the aims and objectives as well as the company's business activities in which there are already various kinds of business fields that the company can choose to run its business. The business sector has a very important role in a company because it is used as a legal basis for directors to act or carry out their business activities. "The aims and objectives are conceptualized as the will or goals to be achieved from the establishment of a Limited Liability Company" (Djumardin, 2019). With the emergence of the 2020 KBLI, companies that already have legality as legal entities must make changes to the adjustment of the company's purposes and articles of association using the 2020 KBLI. This is because previously companies that already have legality as legal entities have used the 2015 KBLI and 2017 KBLI. replaced with the 2020 KBLI which made the company have to migrate to make changes to adjust the aims and objectives and activities of the company. However, for companies that use the 2017 KBLI in their articles of association, if there are no changes in the 2020 KBLI, then the company should not need to make adjustments to its articles of association, and for companies that were established before the electronic licensing was

issued and do not have a TDP or NIB, the company The company can still carry out its business activities legally as long as it has a SIUP, but it is recommended to immediately register the company to obtain an NIB that is valid as a TDP through the OSS system. (Jaya, 2020).

The process of changing the company's articles of association is carried out with a notarial deed of amendment, in which the Limited Liability Company adjusts the purposes and objectives of the company's articles of association in accordance with the 2020 KBLI. from the Ministry of Law and Human Rights of the Republic of Indonesia. "The authority of the minister to ratify or give approval is absolute authority, because the ratification and approval given is bound by the requirements of the contents of the deed of amendment to the articles of association and their prohibitions as stipulated in the Company Law. (Setiawan, 2019). After the series of processes have been completed, with the decision letter "approval of amendments to the articles of association from the Ministry of Law and Human Rights of the Republic of Indonesia", the PT can immediately process or apply for a business permit. The basic concept of licensing is to control every activity or individual behavior that is preventive in nature (Agung, 2021). PT as a legal entity must fulfill operational legality related to licensing (Pangestu, 2017). To be able to operate, a business license is a requirement that must be met by the founders. A business license is a form of granting legitimacy and/or approval by the competent authority to an entrepreneur or a company for the operation of a business activity.

The licensing process in Indonesia is fairly easy to do. "In mid-July 2018, the Indonesian government through the Coordinating Ministry for the Economy inaugurated the Online Single Submission (OSS) which is under the Investment Coordinating Board (BKPM) as a system created by the government to make it easier for business people to take care of their business permits. The facilities obtained in the OSS itself are in the form of a NIB (Business Identification Number) which acts as a Company Registration Certificate. However, in reality, not all business fields that have been registered or inputted into the AHU Online system can be applied for permits through Online Single Submission (OSS). Because by looking at the guidelines in the OSS application, it is determined that there are several independent business fields that cannot be combined with other business fields or are single purpose. Meanwhile, AHU Online does not recognize the term single purpose so that all business fields can be combined. One example of the non-integration of existing business fields in AHU Online with OSS is like PT. SK and PT. HMF, which runs its business in wholesale and retail trade as registered in the online AHU application, automatically reads on the OSS system only retail trade, while for large trades it cannot be read or cannot be integrated.

The existence of "asynchrony between AHU Online at the Ministry of Law and Human Rights and the Online Single Submission (OSS) system at the Investment Coordinating Board (BKPM) certainly has not been able to achieve the objectives to be achieved from the issuance of Government Regulation Number 5 of 2021 in Article 3 states that the implementation of Risk-Based Business Licensing as referred to in Article 2 aims to improve the investment ecosystem and business activities, through the implementation of the issuance of Business Licensing in a more effective and simple manner." Effective according to the KBBI is to be able to bring results or be effective. So when viewed from an effective point of view, in its implementation there is a discrepancy or misalignment between these two systems which results in the legality of the business license, thus the effectiveness itself has not been realized. Based on the previous description above, there is a synchrony between AHU Online at the Ministry of Law and Human Rights and the Online Single Submission (OSS) system at the Investment Coordinating Board (BKPM) of course causing losses for the company because the company cannot operate due to delays in the licensing process through

OSS. This is due to the fact that AHU Online and OSS have not been perfectly synchronized, so in this paper we will discuss the legal consequences of the limited liability company business that is not integrated with OSS.

RESEARCH METHOD

The type of "legal research used in this research is empirical juridical. According to Soerjono Soekanto, empirical juridical research is research on legal identification and research on legal effectiveness (Soekanto, 1990). The nature of this research is descriptive analytical. The type of research used is normative juridical. This legal research is research that is used with the type of normative juridical research, namely research that is focused on examining the rules or norms in positive law. Normative juridical research is research that is used to examine the application of legal rules or norms (Koto & Lubis, 2020). Empirical juridical research is research that is used to analyze the law which is seen as patterned community behavior in people's lives who always interact and relate to social aspects. (Sunggono, 2015). The approach used in this research is a "statutory approach" and a conceptual approach (conceptual approach) by revealing and taking the truth obtained from events in the field, namely by combining concepts and legislation related to the research material. This study uses primary, secondary and tertiary legal materials, then draws a conclusion in relation to the problem under study and then analyzes it qualitatively to obtain a description of the legal consequences on the business sector that is not integrated with the Online Single Submission. The research location in this study is in Banda Aceh City.

DISCUSS AND ANALYSIS

Adjustment of the Articles of Association of Limited Liability Companies with KBLI 2020

KBLI is a standard classification of Indonesian business fields as a form of business activity that will be carried out by business actors, both in the form of business entities and legal entities. The articles of association of a limited liability company also recognize the inclusion of the purposes and objectives of the articles of association. This is as mandated in Law Number 40 of 2007 concerning Limited Liability Companies in Article 2 "stating that the Company must have aims and objectives as well as business activities that do not conflict with statutory provisions, public order, and/or decency. " A business will definitely produce an added value (if executed correctly). By stating the aims and objectives of the company's activities, it can provide limitations to the board of directors in carrying out activities so as not to exceed their authority. Business activities that are outside the company's articles of association are ultra vires actions. Because the act was carried out by the company in an incompetent condition because it was outside the aims and objectives as well as the company's business activities. "Ultra vires itself is defined as an act done without the authority to act as a subject. In Latin, ultra vires" means "outside" or "exceeding" "outside the power", namely the power granted by law to a legal entity (in this case the legal entity of the Company which is represented by the Board of Directors). Another term that is often used to define ultra vires is excess of authority (Fuadi, 2010).

A legal act is considered to be outside the company's goals and objectives if it meets one of the criteria: (Prasetya, 2011)

- a. "the legal action concerned is expressly prohibited by the articles of association;
- b. With regard to special circumstances, the legal action concerned cannot be said to support the activities referred to in the articles of association;"

- c. With regard to special circumstances, the legal action in question cannot be interpreted as supporting the interests of a limited liability company.

So by including the company's business activities in the articles of association of the company, it can provide limits so that the directors do not act beyond their authority. "As stated in Article 15 paragraph (1) letter b of the 2007 Company Law, it is emphasized that the articles of association must contain at least the aims and objectives as well as the Company's business activities. Now the inclusion of the "purpose and objectives of the articles of association" is adjusted to the 2020 KBLI. The presence of the 2020 KBLI requires companies that previously had legality as legal entities to make adjustments to the articles of association. In amending the company's articles of association, the company will first hold a General Meeting of Shareholders. The GMS is divided into two categories, namely the annual GMS and the extraordinary GMS. "This annual GMS is held to discuss and approve the company's annual report to be submitted by the Board of Directors related to various matters affecting the company. Extraordinary GMS" is held at a "certain time" based on the interests of the company. The topics of discussion at the Extraordinary GMS are all matters that are urgent in nature and are outside the routine plan for discussing the annual GMS.

Then the GMS held for the agenda of changing the Company's Articles of Association, is regulated in Article 88 of the 2007 Company Law with the following provisions:

1. "The requirement for a quorum of attendance is at least 2/3 (two thirds) of the total shares with voting rights, to be present or represented."
2. "a decision is valid if it is approved by at least 2/3 (two thirds) of the total votes cast".

After holding a general meeting of shareholders, the results of the meeting are stated in a notarial deed in the form of a deed of confirmation of the general meeting of shareholders. Amendments to the articles of association are also divided into 2 (two) categories, namely changes that require the approval of the Minister and changes to the articles of association that only need to be notified to the Minister. As stated in Article 21 paragraph (2) of the 2007 Company Law, amendments to the articles of association that must obtain ministerial approval are:

- a. the name of the Company and/or the domicile of the Company;
- b. "the purposes and objectives and business activities of the Company;"
- c. "the period of establishment of the Company;"
- d. "amount of authorized capital;"
- e. "capital reduction"
- f. "placed and deposited; and/or"
- g. "The status of a closed company becomes a public company or vice versa".

Second, The essence of land is very meaningful for human life, especially the people of Indonesia (Wajdi, Ramadhani, 2022). The State of Indonesia is a State of Law, this is regulated in article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, affirmation The contents of this constitution mean that all aspects of life in society, state and

government must be based on law (Asmadi, et.al, 2021). Article 21 paragraph (3) of the 2007 Company Law, that changes to the articles of association other than those referred to in paragraph (2) are sufficient to notify the Minister. In making changes to the company's articles of association, a notary also has a very important role. In addition to playing a role in making changes to the company's deed, the notary also conveys to the minister through AHU Online about changes to the company's articles of association in order to obtain a decree from the minister. In Permenkumham Number 21 of 2021 concerning Procedures for Establishment, Amendment and Dissolution of a Limited Liability Company Legal Entity in Article 5, it is stated that the establishment of a capital partnership company is carried out by the applicant through a notary by filling out the establishment form electronically through the SABH. This means that only a notary has the authority to access or operate the AHU Online system. AHU Online is an electronic-based legal service, in the form of services for establishing or changing legal entities such as foundations, cooperatives and limited liability companies organized by the Directorate General of Legal Administration and Human Rights.

If the company has adjusted the company's articles of association, then the next step is that the company can immediately apply for a business license. Utrecht defines a permit as if the regulator generally does not prohibit an act, but still allows it "as long as it is carried out in a manner determined for each concrete matter, the decision of the state administration that allows the act is a permit". (*vergunning*) (Utrecht, 1957). Licensing is carried out to provide formal legality to certain individuals or business entities/legal entities, in the form of a business registration sign or in the form of a license. Licensing is one of the most frequently used parameters in administrative law. The purpose of the permit, is as follows: (Sutedi, 2010)

- a. "Desire to direct (control) certain activities;
- b. "Preventing harm to the environment;"
- c. "The desire to protect certain objects;"
- d. "To share the few things;"
- e. "Direction, by selecting people and activities, where the board must meet certain conditions".

Licensing serves as the legality of the company in running its business. One of the new breakthroughs related to licensing is the birth of an integrated electronic licensing service or online single submission (OSS). This is in line with Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing Services. OSS is an electronic licensing service issued by the government as an effort to facilitate the implementation of licensing in Indonesia. OSS is an integrated electronic licensing service. OSS is a form of simplification of licensing procedures in Indonesia made by the government to make it easier for business actors to get permits easily and quickly. OSS has the advantage of making it easy to apply for permits online. This changes the paradigm of licensing in Indonesia, which was previously done conventionally by coming to the licensing service counter, now it can be done with a computer or gadget that is connected to the internet so that it can be accessed easily. (Djokowicaksono, 2021). By adjusting the company's goals and objectives and activities with the 2020 KBLI, it will be easier for companies that will participate in projects or work organized by certain agencies and make it easier for companies to enter into engagements with third parties such as engagements with banks in applying for credit facilities. or cooperate with other parties.

Analysis of Legal Consequences of Business Fields Not Integrated With Online Single Submission

The business sector has a very important role in a company because it is used as a legal basis for directors to act or carry out their business activities. people who have joined with the same goal and with separated wealth intend to achieve that goal (Boediono, 2008). The inclusion of "business fields in a company also has the aim of protecting shareholders who invest their capital by buying company shares, which have the right to know what the invested money is used for. By knowing the aims and objectives as well as the company's business activities, investors are confident that the company's directors will not enter into contracts containing purposes other than those stated in the articles of association.

Not all inclusion of business fields in the company is justified. Article 2 of the Company Law has limited the aims and objectives as well as the company's business activities, namely:

- a. Does not conflict with the provisions of standard laws and regulations
- b. Must not conflict with public order
- c. Not against decency

As for companies that have adjusted the aims and objectives as well as activities in the articles of association, they will obtain an approval letter for amendments to the articles of association from the Minister because the changes have been registered by a notary in the online AHU. At the online AHU, the notary will adjust the company's goals and objectives as stated in the amendment deed. Notaries must be very careful in filling out data on the online AHU so that there are no errors which will then have an impact on the licensing process through OSS. The output given through the OSS is in the form of a Business Registration Number (NIB) which is valid as a company registration certificate. NIB is legality for business actors in running their business. In the context of the legality of the company's operations, the principle of legality emphasizes the implementation of business activities by individuals and business entities based on the law. The principle of legality in this context, including the ownership of business licenses and operational permits proves the legitimacy of carrying out business activities in accordance with the provisions regulated by law. With regard to the legality of the company, the legality of the PT business provides legal certainty for the company to carry out its business activities based on the applicable legal provisions. The legality of the PT also provides legitimacy that the aims, objectives, and business activities of the company do not at all contradict the provisions contained in the laws and regulations, public order, and morality. (Sinaga, 2018).

If the company already has an NIB, it is clear that the legality of the company is operational. However, in practice, there are business fields that have been registered on AHU online but are not integrated with OSS. This discrepancy between online AHU and OSS which then causes losses for the company. One example is a limited liability company that runs its business in the wholesale trade and retail trade as registered in the online AHU application, automatically what is read on the OSS system is only retail trade, while for large trades it cannot be read or cannot be integrated.

In "the OSS application itself, it turns out that it has a single-purpose business field. Single purpose KBLI contains a list of business fields (KBLI), namely business fields that can be carried out by business actors on the condition that business actors do not carry out other business fields. Although in fact there is no specific regulation that regulates it, the investment coordinating body categorizes types of permits that cannot be combined with other permits.

However, wholesale trade and retail trade are not included in the single-purpose KBLI because each is under the same KBLI title, namely Wholesale and Retail Trade; Repair And Maintenance Of Cars And Motorcycles. However, it turns out that in "Regulation of the Minister of Trade of the Republic of Indonesia Number 66 of 2019 concerning Amendments to the Regulation of the Minister of Trade Number 22/M-Dag/Per/3/2016 concerning General Provisions for the Distribution of Goods, Article 19 paragraph (1) states that Distributors, Sub Distributors, Wholesalers, wholesalers, agents and sub-agents are prohibited from distributing goods in retail to consumers." This is what then causes wholesale trade and retail trade to not be combined, which then causes the business field to not be integrated with OSS or can't be read by OSS because the OSS system immediately blocks if there are things that don't match.

Seeing that there is no compatibility between the AHU Online system which is under the ministry of law and human rights and OSS which is under the Coordinating and Investment Agency and the laws and regulations, it means that it has not been able to provide legal certainty, especially for business actors, which has led to inconsistencies related to business fields. According to Gustav Radbruch, legal certainty is "Law in developing countries there are two notions of legal certainty, namely certainty because of the law, and certainty in or from the law. Guaranteeing certainty because the law is the duty of the law. Laws that succeed in ensuring a lot of certainty in social relations are useful laws. Legal certainty is basically a written legal instrument in a country which expressly implies clarity and can be implemented (RAS, 2020)." So the government should in issuing a policy must be able to reflect the value of legal certainty and the existing system in AHU Online or OSS should adjust to the laws and regulations so that no party is harmed due to regulations that do not or clearly regulate, especially in this case related with business.

The legal consequences for business fields that have been registered with AHU online but are not integrated with OSS are companies that have adjusted their aims and objectives to kbli 2020 with a notarial deed and have obtained an approval letter for amendments to the articles of association issued by the ministry of law and human rights, which remain valid and are considered valid. . However, for a company whose line of business is not integrated with OSS, the company cannot run the business because it cannot obtain a business license, because a business license is a form of legal certainty in conducting business activities or as legality of a business license, because in running a business, a business license is required. is an absolute requirement that must be met by business actors in order to be operational.

CLOSURE

Conclusion

Based on the results of the research and discussion as described previously, it can be concluded that the adjustment of the purposes and objectives of the articles of association with the 2020 KBLI must be carried out by the company because if the company does not adjust the articles of association, the company cannot enter into engagements with third parties or participate in tenders or projects that held by the government which requires the company to have a business license as the legality of the company in running its business.

The legal consequence of a limited liability company business field that is not integrated with OSS is that the business field cannot be carried out or cannot operate because it does not obtain a business license which is the legal basis for the company in carrying out its business activities. However, the inclusion of the business field in the notarial deed and online AHU is still considered valid as long as it has obtained a letter of ratification or approval for changes to the articles of association from the Ministry of Law and Human Rights.

Suggest

The company should be able to adapt to the applicable system, which is related to the purposes and objectives of the articles of association with the 2020 KBLI, the company must do this because if the company does not make adjustments to the articles of association.

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