

Legal Analysis of Individual Companies in Supporting the Development of Micro and Small Enterprises in Indonesia

Ullia, Mohammad Roesli¹, Sri Anggraini Kusuma Dewi¹

¹Faculty of Law, Merdeka University Surabaya, Indonesia

*Corresponding Author Email: umigege@gmail.com

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ABSTRACT

This research aims to analyze the legal aspects of individual companies in supporting the development of micro and small enterprises (UMK) in Indonesia. Individual companies, which were introduced through Law Number 11 of 2020 concerning Job Creation and have been amended by Law Number 6 of 2023, offer convenience for MSEs in establishing legal entities. However, individual companies still face various legal obstacles that can hinder their effectiveness. This research identifies and evaluates these obstacles, including lack of clarity in regulations, conflicts of interest, and issues of owner responsibility and accountability. Through legal and conceptual approaches, this research examines the legal barriers of individual companies to the development of MSEs and provides recommendations for overcoming existing barriers. It is hoped that the findings from this research can contribute to the development of a legal framework that is more supportive for individual companies in order to advance MSEs in Indonesia.

Keywords: Companies, Corporations, Individuals, Businesses, MSEs, Law

1. INTRODUCTION

Micro, Small and Medium Enterprises (MSMEs) have a very important role in the Indonesian economy, especially in supporting national economic growth. Based on data from the Ministry of Cooperatives and Small and Medium Enterprises (KEMENKOPUKM) in 2021, Constatinus Kristomo (2024) explained that: "MSMEs contributed to Gross Domestic Product (GDP) of 61.97% or around IDR 8,500 trillion out of 64.2 million MSME business units and absorb more than 97% of employment in Indonesia (Sebayar & Lunandi, 2024). "This shows that the MSME sector is not only the backbone of the national economy but also functions as the main support in creating extensive employment opportunities for the community as well as playing a central role in reducing unemployment levels and improving community welfare.

The contribution of MSMEs to economic growth is not only visible in terms of job creation, but also from the local economic dynamics they generate. Micro and small businesses often operate in sectors close to people's daily needs, such as trade, services and small-scale manufacturing. This makes MSMEs able to adapt quickly to changes in market demand and contributes to supporting economic stability at the local and national level.

MSMEs can increase their production capacity and product quality through various coaching programs and better access to capital. The Indonesian government has paid special attention to the



development of MSMEs through various policies and programs, one of the policies which is expected to improve the quality and quantity of MSMEs is through the formation of simpler and more flexible legal entities.

In 2020, the Indonesian government made a legal breakthrough by issuing Law Number 11 of 2020 concerning Job Creation (UUCK), one of the important parts of which is the regulation of Individual Companies. This law has been revoked and replaced with Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation and has been re-established with Law Number 6 of 2023 concerning Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (hereinafter referred to as Law Number 6 of 2023). Law Number 6 of 2023 abolishes and amends several laws and establishes new regulations. In Law Number 6 of 2023, one of them discusses the simplification of the establishment of Limited Liability Companies (PT) which was previously regulated in Law Number 40 of 2007 concerning Limited Liability Companies or commonly called UUPt.

Elucidation of Law Number 6 of 2023 amends Article 7 Paragraph 7 of the Limited Liability Company Law so that the mandatory rules for a Company established by two or more people no longer apply to: "...Companies that comply with the criteria for Micro and Small Enterprises (UMK) (Masitah et al., 2023). ”

The establishment of an Individual Company is further regulated in Government Regulation Number 8 of 2021 concerning the Authorized Capital of Companies and Registration of the Establishment, Changes and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses. Companies that comply with the criteria for micro and small businesses mentioned in Article 2 of Government Regulation Number 8 of 2021 consist of two types, namely companies founded by two or more people and individual companies that are founded by just one person. This regulation also sets a very affordable minimum basic capital and simple establishment procedures, so it is very suitable for micro and small entrepreneurs who are just starting their business.

Individual Companies offer various conveniences, but their implementation needs to be evaluated to ensure their effectiveness in supporting MSE development. Legal analysis is needed to identify obstacles that may be faced and provide relevant policy recommendations.

2. RESEARCH METHODS

This research applies normative juridical methods, which focus on studying applicable legal norms and rules. The aim of normative juridical research is to examine in depth the statutory regulations, legal doctrine, and legal principles that are relevant to the topic under study. This



research will examine regulations related to individual companies and their contribution to the development of micro and small businesses in Indonesia (Soekanto, 2006).

Responding to the legal issues identified in the problem formulation, this research adopts a normative research type (legal research) by analyzing library materials or secondary data. This normative research aims to assess the consistency between legal rules and existing legal norms, as well as evaluating whether legal norms in the form of orders or prohibitions are in accordance with legal principles. The main focus of this research is to analyze the legal concept of Individual Companies based on Law Number 6 of 2023, which stipulates Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation along with the obstacles faced in supporting Small and Medium Enterprises in Indonesia. Through this legal research, it is hoped that appropriate legal rules, principles and doctrines can be found to answer the legal problems faced. (*Scholar*, n.d.) Marzuki, P. M. (2010).

3. RESULTS AND DISCUSSION

Individual Company Law in Indonesia

The definition of a company is seen in terms of profits, if a company is used in calculating losses and profits, then that can be estimated and shown in the form of its bookkeeping. Therefore, according to Article 6 of the Commercial Code, the bookkeeping element is an absolute element. In a company's bookkeeping, there is profit, which is the main objective of the company being founded (M Shidqon Prabowo, n.d.).

Law Number 8 of 1997 concerning Company Documents in Article 1 Number 1 explains that: A company is any form of business that carries out activities on a permanent and continuous basis to obtain profits and/or profit, whether organized by an individual or a business entity in the form of a legal entity or non-legal entity, which is established and domiciled within the territory of the Republic of Indonesia (Sembiring, 2006).

The explanation of the company in Law Number 3 of 1982 uses the term "carrying on any type of business", whereas in Law Number 8 of 1997 it uses the term "carrying out activities" (actions or activities which means it has a very general and broad meaning, without any limitations. in economics) (Number, 3 C.E.). Meanwhile, the definition of a company in the Law on Social Security for Workers means that the company does not necessarily have to seek profit or profit but also has goals in the social sector (Siregar, 2016).

Law Number 13 of 2003 in Article 1 Number 6, explains that the definition of a company is: "Every business entity which is a legal entity or not, owned by an individual, owned by a partnership,



or owned by a legal entity, whether privately owned or state owned which employs workers / workers by paying wages or other forms of compensation.”

Explanation of Article 1 Number 4 of Law Number 3 of 1992 concerning Social Security for Workers, the definition of "A company is any form of business that employs workers with the aim of making a profit or not, whether private or state owned." Every time the term company is used, there are always other terms related to the company, namely business actors. Business actors have the same meaning as business actors and economic actors in the company. The definition of business or economics is a legal subject that carries out or carries out activities/actions in the economic field, which can produce and produce goods or services, or carry out distribution of goods or services.

The definition of business actor in Law Number 8 of 1999 concerning Consumer Protection in Article 1 Number 3: Business Actor is every individual or business entity in the form of a legal entity or non-legal entity established and domiciled within the jurisdiction of the Republic of Indonesia, whether alone or jointly through agreements for the implementation of business activities in various economic activities.

Legal Obstacles Faced by Individual Companies

According to the Big Indonesian Dictionary (2016), the definition of obstacle is an obstacle, obstacle. The opinion expressed by Oemar (1992: 72), regarding the meaning of obstacles is that everything that hinders, impedes, hinders that humans or individuals encounter in their daily lives that come and go, thus creating obstacles for individuals who experience them to achieve their goals. so that it can be concluded that obstacles are anything that can become an obstacle or obstacle that occurs while doing or is carrying out a job or activity to achieve a goal (Setiawati, 2016).

According to the opinion presented by (Atmaja & Ruliana, 2017), in the context of management and marketing, the definition of barriers is often interpreted as obstacles or challenges that must be overcome by a company or organization in achieving its goals. In the opinion of Stephen P. Robbins and Mary Coulter, in a book on management, obstacles are referred to as anything that prevents an organization from achieving its stated goals (Arrizal, 2013).

Every time you carry out a task or job, the word obstacle always has a very important meaning. A task or work cannot be carried out if an obstacle arises that has the effect of disrupting the completion of the work. An obstacle is a situation that can cause disruption to implementation and not be carried out well. Every human being is born with obstacles in everyday life, which can arise from within the human being or from outside the human being. When we talk about obstacles, we think that they are negative, meaning slowing down the pace of something someone is doing.

Legal Barriers



In the Big Indonesian Dictionary (KBBI), law is defined as "official and binding regulations or customs, established by the authorities or government" (Pratama & Putikadyanto, 2023). Law is a system of regulations made by the state or competent authority, which has sanctions and regulates people's lives. In his book "Pure Theory of Law", Hans Kelsen defines law as a hierarchical system of norms. Law is a series or series of regulations that are arranged logically and systematically, with each legal norm gaining strength from the norm above it (Mappatunru, 2020).

The opinion expressed by Roscoe Pound was that he saw law as a social engineering tool used to achieve justice. In his opinion, law has the function of regulating human behavior in society in order to achieve certain social goals (Pound, 2017). Indonesian legal experts understand law as the totality of principles and norms that regulate life together in society and aim to create order and justice (Rahardjo, 2010). Legal barriers can be defined as all forms of constraints or obstacles arising from statutory regulations, government policies and legal practices that hinder the implementation or achievement of certain goals within the legal framework. These barriers may include unclear regulations, complex procedures, inconsistent interpretations, or a lack of effective law enforcement. Legal obstacles can be experienced by various parties, including individuals, companies and organizations, in carrying out their legal or business activities. In the corporate context, legal obstacles often arise in the form of burdensome regulations, complex bureaucracy, or a lack of supporting legal infrastructure. Legal obstacles can be categorized into several types based on their source and impact on legal subjects.

So, according to several opinions that have been expressed by experts regarding the meaning of legal obstacles, namely that they are obstacles or obstructions that arise from several applications or implementation of the law that affect the ability of individuals, companies or society to achieve certain goals.

Inhibiting Factors

Obstacles are defined as something that can prevent the implementation of a program from running. Obstacles arise due to 2 (two) factors, namely internal factors and external factors. All obstacle factors are in the form of resources, regulations, or other external environmental factors. (Robbins, Stephen and Mary Coulter. Management", 13th Edition, 2016). Barriers can be internal (from within the organization) or external (from outside the organization). Internal factors in obstacles usually arise from oneself (within) a company or person or organization and are the main supporter of achieving goals, while external factors include those from outside the person as reinforcement of the main supporting factors such as the environment or society.



Individual companies, as legal entities, were newly introduced through Law Number 11 of 2020 concerning Job Creation which was later amended by Law Number 6 of 2023 concerning the Determination of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law. , aims to provide convenience for Micro, Small Enterprises (UMK) actors in establishing legal entities. Even though they provide many conveniences, individual companies still face various obstacles that can hinder their effectiveness in supporting the development of MSEs in Indonesia.

Legal Obstacles in Individual Companies

From several elements of micro and small businesses, there are still problems arising in the aspect of legal certainty, namely the provisions of Law Number 6 of 2023 Article 109 number 5 which adds an explanation to Article 153 letter H of the Limited Liability Company Law as stipulated that the status of individual companies no longer meets applicable and mandatory conditions for changing the status of a legal entity from an individual company to a capital partnership company. Apart from the problem of individual companies not changing their status to capital partnership companies if they are no longer included in the criteria for micro and small businesses, there is the problem of conflicts of interest in the management of individual companies for micro and small businesses, violations of the principle of accountability in the management of individual companies for micro and small businesses.

In micro and small individual companies, the main problem is determining the benchmark for limited shareholder liability on the grounds that the founder and shareholders are the same party. According to the opinion of (Zen & Sumiyati, 2022), in individual companies fraud will still be prone to occur, because all shares are owned by only one person. The opinion that has been put forward is based on the fact that micro and small individual companies are basically individual companies.

The weaknesses of individual companies are as follows:

1. The company's financial resources are relatively limited, which means the source of funds (capital) only depends on one person;
2. The owner's liability is not limited even to his personal assets;
3. Business continuity is less guaranteed;
4. In terms of leadership, many problems occur in individual companies, because all business activities are carried out by the owner of the business entity, such as problems with finding credit, managing labor, spending, finance, production, and activities in product marketing. If an individual company uses the principle of unlimited liability, because in this case the company's assets are not managed properly but are mixed between personal and company assets as well as the owner's obligations.

Naturally, every established company must be transparent, the management of the company must be fairly accountable and decisions in carrying out business activities must be made with objectivity. The next weakness in individual companies is the principle of accountability, namely the principle of an effective supervisory system based on a balanced distribution of power between the board of commissioners, board of directors, shareholders and auditors (accountability of authority, traceable, reasonable). The above principles clearly describe the functions, implementation and accountability of company management which have an impact on the effectiveness of the implementation of company management. An Individual Company here has only one person as its organs and shareholder.

Based on the condition that the status of an individual company no longer meets the requirements and obligations to change its legal entity status from an individual company to a capital partnership company, this will result in the law in Article 9 paragraph 1 of Government Regulation Number 8 of 2021 as follows: Individual Companies must change their legal entity status. become a company in accordance with applicable regulations.

Individual companies that are no longer included in the criteria for micro and small businesses are required to change their status to capital partnership companies, but there are no explicit sanctions if individual companies do not carry out this requirement and result in the creation of legal certainty. Government intervention is needed to monitor so that bad management can be avoided and prevent bankruptcy and dissolution of the company due to unprofessional company and financial management.

4. CONCLUSION

The legal concept of Individual Companies in Indonesia is an innovation introduced through Law Number 11 of 2020 concerning Job Creation and strengthened by Government Regulation Number 8 of 2021 concerning Authorized Capital of Companies and Registration of Establishment, Changes and Dissolution of Companies that Meet the Criteria for Micro Businesses and Small. Individual Companies are designed to make it easy for micro and small businesses to establish simple and efficient legal entities. The Individual Company Law exists because of the existence of Micro and Small Business Units. With this concept, Individual Companies are expected to provide a more flexible legal structure and support the development of micro and small businesses in Indonesia. Legal Obstacles Faced by Individual Companies in Supporting the Development of Micro and Small Enterprises in Indonesia:



Individual companies regulated in Law Number 6 of 2023 face several main problems, including:

- a. Legal Certainty: individual companies that no longer meet the UMK criteria are required to change their legal entity status to become a capital partnership company.
- b. Conflict of Interest: in managing an individual company, there is the potential for conflict of interest and violation of the principle of accountability.
- c. Limited Liability: individual companies face problems in determining the benchmark for limited shareholder liability, especially because the founders, managers and shareholders are the same party.
- d. Limited Financial Resources: the company's funding sources are relatively limited because it only depends on one person.
- e. and. Business Continuity: business continuity is less guaranteed because all business activities are carried out by one person.
- f. Principle of Accountability: lack of application of the principle of accountability in the management of individual companies, which involves a balanced distribution of power between various parties in the company.

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