

## ROLE OF NOTARY IN IMPLEMENTING PERMENDAGRI NO. 138/2017 CONCERNING THE IMPLEMENTATION OF ONE DOOR INTEGRATED SERVICES THROUGH ONLINE SUBMISSION IN SEMARANG

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### **ABSTRACT**

*One Stop Integrated Service (PTSP) in Permendagri No. 138/2017 Article 1 is a licensing and non-licensing service activity with the management process from the application stage to the publication of documents carried out transparently and in an integrated manner in one place. Applicants only meet the customer service so as to minimize interactions with licensing officers. Licensing services are carried out by technical regional officers with sufficient authority, starting from receiving applications, processing, signing licensing decisions and receiving licensing fees / taxes. This research was conducted using a normative juridical and statutory approaches. It was a study that emphasizes the science of law and tries to examine the legal principles that apply in society and the case approach which concerns the research problem of PTSP (One Stop Integrated Services) through Online Single Submission (OSS). The results of this study indicate a notary as an intermediary for the entrepreneurs who want to make a business or legal entity in making deeds and register through the Online Single Submission (OSS) page through the One Stop Integrated Service office with the requirements.*

Key words: Online Single Submission (OSS), Role of Notary, One Stop Integrated Service (PTSP).

### **A. INTRODUCTION**

The complicated condition of licensing services, long procedures, long time, unclear costs, and the large number of illegal levies are blurry portraits of poor public services. Conditions like this certainly have a big effect on slow investment and economic growth. Improving the quality of public services is an effort that must be patterned, sustainable and implemented by all levels of government apparatus.

One of the strategic steps to encourage efforts to improve the delivery of services to the community is to carry out licensing services in an integrated manner. By simplifying and integrating licensing services in one place, it is hoped that various requirements can be parallelized, processing times will be faster, costs will be clearer and more efficient while simultaneously reducing the practice of illegal levies.

In this connection, the government has issued Presidential Instruction No. 3/2006 on the Package for Improving the Investment Climate. In essence, the Presidential Instruction mandates several government agencies to immediately implement several policies, programs and actions in improving the investment climate. One way is to improve performance and simplify the licensing process.

Following up on these instructions, the Government has issued Permendagri No. 138/2017 concerning the Implementation of Regional One Stop Services (PTSP). The premise of this Permendagri's premise is the desire to integrate all public service processes, both licensing and non-licensing into one integrated management system so that the service bureaucracy becomes simpler and more transparent.

One Stop Integrated Service (PTSP) in Permendagri No. 138/2017 Article 1 is a licensing and non-licensing service activity whose management process from the application stage to the publication of documents is carried out transparently and in an integrated manner in one place. The applicant only meets with customer service officers so as to minimize interactions with licensing officers. Licensing services are carried out by technical regional apparatuses with sufficient authority, starting from receiving applications, processing, signing licensing decisions and receiving licensing fees / taxes.

Public services or public services can be defined as all forms of services, both in the form of public goods and public services, which in principle are the responsibility and implementation of government agencies at the central, regional, and in the environment of State-Owned Enterprises or Regional-Owned Enterprises. in order to meet the needs of the community and in the context of implementing the provisions of laws and regulations Therefore the public bureaucracy has the obligation and responsibility to provide good and professional services<sup>1</sup>.

The general impression on the performance of the bureaucracy by the public is always associated with everything that is slow, slow, and convoluted and formality. Settlement of bureaucratic performance issues always faces time-consuming obstacles, so the completion is always delayed. In fact, if we understand the performance of the bureaucracy, the tasks given are more orderly and orderly, so it is not expected that obstacles or delays will occur<sup>2</sup>.

Licensing services in establishing a business in Indonesia continue to be improved and made easier. The government has made efforts to simplify services, both licensing and non-licensing, namely by implementing the One Stop Integrated Service system or abbreviated as One Stop Integrated Service (PTSP). What is meant by One Stop Services (PTSP).

One Stop Integrated Services (PTSP) is not a new policy in bureaucratic management. The establishment of One Stop Services (PTSP) in the regions is included in the framework of bringing closer and improving services to the community and

<sup>1</sup> Nuriyanto, Penyelenggaraan Pelayanan Publik di Indonesia, Sudahkah Berlandaskan Konsep "welfare state" ?, Jurnal Konstitusi, Volume 11, Indonesian Constitution Assembly, Jakarta, 2014, p 429.

<sup>2</sup> HAW Widjaja, Otonomi Daerah dan Daerah Otonom, Rajawali Pers, Jakarta, 2014, p 81.

shortening the service process in order to realize fast, easy, cheap, transparent, certainty and affordable services. With the One Stop Integrated Service (PTSP), licensing applicants no longer need to take care of various letters and documents at different offices with different office locations.

The convoluted service bureaucracy makes it difficult for investors to open a business in Indonesia. The Central Government has appealed to the governors to immediately build a One Stop Integrated Service (PTSP) for investors. If not, the Special Allocation Fund (DAK) will be removed for the region concerned, including reducing the amount of the General Allocation Fund (DAU)<sup>3</sup>.

The purpose of establishing One Stop Services (PTSP) is to facilitate the licensing process in establishing a business that business players have been complaining about. The public or investors consider it too long to take care of the licensing and non-licensing processes, whose management process starts from the application stage to the issuance stage of documents.

The One Stop Integrated Service Licensing Provisions also apply to Notaries when the notary carries out a license. This One Stop Integrated Licensing requires notaries to prepare requirements and Human Resources to respond to One Stop Integrated Service (PTSP) technology through Online Single Submission (OSS), but there are times when the notary does not understand One Stop Integrated Service (PTSP), causing a lack of understanding in registration via Online Single Submission (OSS).

Permendagri No. 138/2017 concerning the Implementation of Regional One Stop Services (PTSP) and PP No. 24 of 2018 concerning Services Licensing Electronically Integrated Business (OSS) all notaries throughout Indonesia must comply with these regulations in making business licenses.

Notary by law is given the authority to state all the actions, agreements and stipulations desired by the parties who come before the notary to consolidate the information in an authentic deed, and the deed he makes has complete proof strength and has its validity. This is confirmed in article 1 number 1 Law no. 30/2004 concerning the Position of Notary Public as amended by Law no. 2/2014 concerning Amendments to Law no. 30/2004 concerning the Position of Notary (hereinafter referred to as UUJN), which states that "Notary is a Public Official who is authorized to make authentic deeds and has other powers as referred to in this Law or based on other laws".

## B. LITERATURE REVIEW

### 1. Definition of One Stop Integrated Service (PTSP)

PTSP stands for (One Stop Integrated Service), which understands it is an activity of organizing permits and non-licensing based on delegation or delegation of authority from institutions or agencies that have licensing and non-licensing authority whose management process starts from the application stage to the issuance stage of documents done in one place<sup>4</sup>.

The aims and objectives are clear, namely to provide licensing and non-licensing services that are fast, effective, efficient, transparent and provide legal certainty as well as realizing the rights of the community and investors to obtain licensing services in the licensing sector.

With this concept, applicants only need to come to one place and meet with the *front office staff*. This can minimize the interaction between the applicant and the licensing officer and avoid unofficial charges that often occur in the service process.

The establishment of One Stop Integrated Service (PPTSP) is basically aimed at simplifying the bureaucracy of licensing and non-licensing services in the form of:

- a. Speeding up service time by reducing the stages in less important services. Better coordination will also greatly affect the acceleration of licensing services.
- b. Reducing business license service costs, in addition to reducing stages, reducing costs can also be done by making service procedures and official fees more transparent.
- c. Simplify the requirements for industrial business licenses, by developing a parallel service system where overlapping requirements will be found, so that requirements can be simplified. This also has a direct impact on reducing costs and time.

This licensing service with an integrated one-stop system (*one stop service*) makes the time for issuing permits shorter. The reason is, with information technology-based administrative management, data input is only done once and administration can be done simultaneously.

The goal is to improve the quality of public services. Therefore, it is hoped that the realization of public services that are fast, cheap, easy, transparent, certain, and affordable, in addition to improving the rights of the people to public services.

This integrated service can be in the form of an office, agency, or agency. In its implementation, the regent / mayor is obliged to simplify services including:

- a. services for licensing and non-licensing applications are carried out by One Stop Integrated Service Provider (PPTSP);
- b. the time acceleration of the service completion process does not exceed the standard time stipulated in regional regulations;
- c. certainty that service costs do not exceed the provisions stipulated in regional regulations;
- d. clarity of service procedures can be traced and known every stage of the licensing and non-licensing process according to the sequence of procedures;
- e. reduce the completeness of the same application for permit for two or more applications for licensing;
- f. exemption from licensing fees for Micro, Small and Medium Enterprises (UMKM) wishing to start a new business in accordance with applicable regulations; and
- g. granting rights to the public to obtain information in relation to service delivery. The scope of tasks of the One Stop Integrated Service (PPTSP) includes the provision of services for all forms of licensing and non-licensing services that fall under the authority of the Regency / City.

<sup>3</sup> <https://www.pengadaan.web.id/2019/03/pengertian-ptsp.html>. 9 July 2019.

<sup>4</sup> <https://dunianotaris.com/kebijakan-ptsp-pelayanan-terpadu-satu-pintu-melalui-pendekatan-sistem.php>. 24 September 2019.

In addition, the One Stop Integrated Service (PPTSP) manages licensing and non-licensing administration with reference to the principles of coordination, integration, synchronization, and file security. In a narrow sense, integrated service can mean a government agency that has all the authority necessary to grant various licenses (*licenses, permits, approvals and clearances*).

## **2. Definition of Online Single Submission (OSS)**

Electronic Integrated Business Licensing or Online Single Submission (OSS) is a Business License issued by the Online Single Submission (OSS) Institution for and on behalf of the minister, head of institution, governor, or regent / mayor to the perpetrator Enterprises through an integrated electronic system.

Online Single Submission (OSS) is used in the processing of a business license by a business actor with the following characteristics: In the form of a business entity or individual; Micro, small, medium and large enterprises; Individual businesses / business entities, both new and established before the operation of Online Single Submission (OSS). Businesses with capital entirely originating from within the country, or there is a composition of foreign capital<sup>5</sup>.

## **3. Definition of Business Entity**

A business entity is a technical and economic juridical (legal) unitary organization that is structured in managing production factors to produce goods and services with the aim of seeking profit (profit).

Referring to Law Number 3/1982 concerning the compulsory registration of companies, a company is defined as "any form of business that runs any type of business that is permanent, continuous, and is established, works and is domiciled within the territory of the State of Indonesia with the aim of obtaining profit or profit". Meanwhile, what is meant by "form of business" is a business organization or business entity that acts as a vehicle for driving every type of business. The organization or business entity is regulated and recognized by law, whether it is an individual, an association or a legal entity<sup>6</sup>.

## **4. Definition of Limited Liability Company (PT)**

The term Limited Liability Company consists of two words, namely Company and Limited. Company refers to the capital of a Limited Liability Company which consists of seros or shares. Meanwhile, the word limited refers to the responsibility of shareholders whose extent is limited to the nominal value of all the shares they own<sup>7</sup>.

Sri Rejeki Hartono gives the definition of a Limited Liability Company, which is an alliance to run a certain company by using an authorized capital divided into a certain number of shares or seros, each of which contains a certain amount of money which is a nominal amount, as stipulated in the notary deed of establishment of a limited liability company, deed where it must be requested for approval by the minister of justice, while to become an associate is obliged to fully place and deposit the nominal amount of one share or more<sup>8</sup>.

Meanwhile, according to IG Rai Wijaya, a limited liability company is one form of business organization or business entity that exists and is known in the Indonesian Commercial Law system<sup>9</sup>.

## **5. Definition of Commanditaire Vennootshaap (CV)**

A limited partnership (commanditaire vennootschap or CV) is an association founded by one or more people who entrust money or goods to one or more people who run the company and act as a leader. According to Article 19 in the Indonesian Commercial Code (KUHD) a limited liability company is a company that runs a company formed between one person or several actors who are directly responsible for the entirety of one party, and one or more people as the release of money on the party. another<sup>10</sup>.

CV is between the Firm and the Limited Liability Company; thus, CV is an association with the deposit of money, goods, labor or as income of allies, formed by one or more active members who are jointly responsible, on the one hand with one or more people others as money lenders (Commercial Law, 2009: 144). The fundamental difference between a Limited Liability Company and a CV is the capital. In a Limited Liability Company, the capital of the company is not stated in the deed of establishment or amendments. In this regard, the founders must make a separate agreement and make a separate record regarding the paid-up capital<sup>11</sup>.

<sup>5</sup> <https://www.indonesia.go.id/layanan/investasi/sosial/perizinan-berusaha-melalui oss>, 24 September 2019.

<sup>6</sup> Abdul kadir Muhammad, Hukum Perusahaan Indonesia, PT. Citra Aditya Bakti, Bandung, 1999, p.1.

<sup>7</sup> Ridwan khairandy, Perseroan Terbatas Sebagai badan Hukum,Jurnal Hukum Bisnis, Volume 26 Tahun 2007, p. 5.

<sup>8</sup> Sri Redjeki Hartono, Bentuk Bentuk Kerjasama Dalam Dunia Niaga, Semarang, 1985, p. 47.

<sup>9</sup> IG Rai Wijaya, Hukum Perusahaan (Undang-undang dan Peraturan Pelaksana Undang-undang di Bidang Usaha), Mega Poin, Divisi dari Kesain Blanc, Bekasi Indonesia 2005. p. 1.

<sup>10</sup> Sentosa sembiring, Hukum dagang, ( Bandung: PT. Citra Aditia Bakti, 2004, p. 23.

<sup>11</sup> Kansil, Pokok-pokok Pengetahuan Hukum Dagang Indonesia (Jakarta : Sinar grafika, 2006) p. 90.

## 6. Legal Basis for Notary Regarding Authentic Deed Making

Notary is a public official who is authorized to make authentic deeds and has other powers as referred to in Law Number 30/2004 concerning the Position of Notary Public ("Law 30/2004") as amended by Law Number 2/2014 concerning Amendments to the Law Law Number 30/2004 concerning the Position of Notary Public ("Law 2/2014") or based on other laws. That is the definition of a notary as stated in Article 1 number 1 of Law 2/2014.

The authority of a notary can be seen in Article 15 of Law No. 2/2014. The notary has the authority to make authentic Deeds regarding all actions, agreements, and stipulations required by the laws and regulations and / or that the interested party wants to be stated in the authentic Deed, guarantees the certainty of the date of making the deed, keeps the deed, provides grosse, copies and excerpts of the deed, all of this as long as the making of the Deed is not assigned or excluded to other officials or other people as stipulated by law.

## C. RESEARCH RESULTS AND DISCUSSION

### 1. The Role of Notaries in the Implementation of Semarang City Business Sector Licensing through One Stop Services (PTSP)

Notaries act as intermediaries for entrepreneurs who want to create a Business Entity or Legal Entity in making deeds and register via the Online Single Submission (OSS) page through the Service office One Stop Integrated with requirements that have been met.

The notary as a general official carries out one of his powers to make authentic deeds of Limited Liability Company registration, which is done manually in making the deed of incorporation of the Company which is the same as the obligations and authorities of Notary in making the agreement. In the legal development, the Business Licensing applicants consist of: Individual Business Actors and Non-Individual Business Actors. Business Licensing (Limited Liability Company), according to PP. 24/2018 concerning Electronically Integrated Business Services, issued by ministers, heads of institutions, governors, or regents / mayors according to their respective powers, including Business Licensing whose issuance authority has been delegated or delegated to other officials. "The implementation of the authority to issue Business Licensing as referred to, including the issuance of other documents related to Business Licensing, must be carried out through the most significant OSS Institutions as the provision of the Business Licensing Service system.

### 2. Constraints in the Implementation of Business Sector Licensing through One Stop Integrated Services (PTSP)

- Not all regional heads / service heads are willing to delegate authority to the head of One Stop Integrated Service (PTSP). The reason is because several permits are related to specific services, such as health and the environment, which are deemed necessary for recommendations from related agencies.
- Limited human resources (HR). Ideally PTSP has technical staff, such as experts in environmental, health, civil and transportation assessment. However, the number of staff generally resides in the agency / agency of origin and not in the One Stop Integrated Service (PTSP).
- The institutional status of One Stop Services (PTSP) varies. Some take the form of agencies, offices and offices, with different implications. If it is in the form of a service and agency, it is usually easy to coordinate with other agencies / agencies because they have equal levels. If it is in the form of an office it becomes difficult to coordinate because of the different levels. Worse, if the One Stop Integrated Service (PTSP) is still a "unit" attached to other institutions.
- Disharmony of One Stop Integrated Service (PTSP) regulations and sectoral egos. The Ministry of Home Affairs has issued Permendagri No. 20/2008 on Guidelines for the Organization and Work Procedure for Integrated Services in the Regions. After that, Presidential Decree No. 27/2009 on One Stop Integrated Service (PTSP) was issued in the Investment Sector. The two regulations are confusing for local governments, given that there are many overlaps in the two regulations.

### 3. Efforts to Overcome Constraints in Business Licensing Through One Stop Services (PTSP)

The first solution that can be offered to improve the performance of the *Online Single Submission* (OSS) system is to conduct socialization and education to stakeholders, ranging from the Government to the private sector, and the general public continuously because there are still many users. *Online Single Submission* (OSS) who do not understand the mechanism of the *Online Single Submission* (OSS) system.

The second solution that can be offered is to provide active assistance to business actors in the use of the *Online Single Submission* (OSS) system and related systems such as PTSP accompanied by strengthening the Task Force for Ease of Doing Business in the Regions. The government must be more active in picking up the ball, not just waiting for action from the business actors themselves.

The third solution is to go deeper into business licensing reforms. It cannot be denied that the *Online Single Submission* (OSS) was born from the President's desire to prepare Indonesia to be more competitive in an era of disruption. We must support this dream as much as possible. This concrete form of support is manifested by carrying out further regulatory and policy reforms. The *Online Single Submission* (OSS) itself was just launched by the Government last July as an answer to the convoluted licensing system in Indonesia. The government hopes that the *Online Single Submission* (OSS) system can increase the level of ease of doing business in Indonesia and make Indonesia more competitive following the times.

Notary as an intermediary for entrepreneurs who want to create a Business Entity or Legal Entity in making deeds and register through the Online Single Submission (OSS) page through the One Stop Integrated Service office with the requirements met.

In the context of accelerating and increasing investment and business, Business Licensing issued by ministries / agencies and Regional Governments to start, implement and develop a business and / or activity, needs to be reorganized so that it becomes a supporter and does not otherwise become an obstacle to business development and / or activities. The restructuring is carried out in the service system and regulations in accordance with the demands of the business world, technological developments and global competition.

## D. CLOSING

### 1. Conclusion

From the results of the research and discussion above, the following can be concluded:

- a. Notary as an intermediary for entrepreneurs who want to make a Business Entity or Legal Entity in making deeds and register via the Online Single Submission (OSS) page through the One Stop Integrated Service office with the requirements that have been met. Notary as a general official carries out one of his powers to make an authentic deed of registration of a Limited Liability Company which is done manually in making the deed of incorporation of the Company which is the same as the obligations and authorities Notary in making the agreement. In the legal development, the Business Licensing applicants consist of: Individual Business Actors and Non-Individual Business Actors. Business Licensing (Limited Liability Company), according to Government Regulation Number 24 Year 2018 Quiet Electronic Integrated Business Services, is issued by ministers, heads of institutions, governors, or regents / mayors according to their respective powers, including Business Licenses whose issuance authority has been delegated or delegated to other officials. "The implementation of the authority to issue Business Licensing as referred to, including the issuance of other documents related to Business Licensing, must be carried out through the most significant OSS Institutions as the provision of the Business Licensing Service system.
- b. Constraints and field problems for One Stop Integrated Service (PTSP) in the regions due to the following.
  - 1) Not all regional heads / service heads are willing to delegate authority to the head of the One Stop Integrated Service (PTSP). The reason is because several permits are related to specific services, such as health and the environment, which are deemed necessary for recommendations from related agencies.
  - 2) Limited human resources (HR). Ideally PTSP has technical staff, such as experts in environmental, health, civil and transportation assessment. However, the number of staff generally resides in the agency / agency of origin and not in the One Stop Integrated Service (PTSP).
  - 3) The institutional status of One Stop Services (PTSP) varies. Some take the form of agencies, offices and offices, with different implications. If it is in the form of a service and agency, it is usually easy to coordinate with other agencies / agencies because they have equal levels. If it is in the form of an office it becomes difficult to coordinate because of the different levels. Worse, if the One Stop Integrated Service (PTSP) is still a "unit" attached to other institutions.
  - 4) Disharmony of One Stop Integrated Service (PTSP) regulations and sectoral egos. The Ministry of Home Affairs has issued Permendagri No. 20/2008 on Guidelines for the Organization and Work Procedure for Integrated Services in the Regions. After that, Presidential Decree No. 27/2009 on One Stop Integrated Service (PTSP) was issued in the Investment Sector. The two regulations are confusing for local governments, given that there are many overlaps in the two regulations.
- c. The first solution that can be offered to improve the performance of the *Online Single Submission* (OSS) system is to conduct socialization and education to stakeholders, ranging from the Government to the private sector, and the general public continuously because there are still many users. *Online Single Submission* (OSS) who do not understand the mechanism of the *Online Single Submission* (OSS) system.

The second solution that can be offered is to provide active assistance to business actors in the use of the *Online Single Submission* (OSS) system and related systems such as PTSP accompanied by strengthening the Task Force for Ease of Doing Business in the Regions. The government must be more active in picking up the ball, not just waiting for action from the business actors themselves.

The third solution is to go deeper into business licensing reforms. It cannot be denied that the *Online Single Submission* (OSS) was born from the President's desire to prepare Indonesia to be more competitive in an era of disruption. We must support this dream as much as possible. This concrete form of support is manifested by carrying out further regulatory and policy reforms. The *Online Single Submission* (OSS) itself was just launched by the Government last July as an answer to the convoluted licensing system in Indonesia. The government hopes that the *Online Single Submission* (OSS) system can increase the level of ease of doing business in Indonesia and make Indonesia more competitive following the times.

### 2. Suggestions

For the entrepreneurs who make business entities can go directly to the Notary's office to make an authentic deed with predetermined conditions, then register it on the Online Single Submission (OSS) page through the One Stop Integrated Service Office (PTSP) with several stages, namely Application, Registration and Until the Issuance of Undertaking Identity Number (NIB).

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