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Legal Management of Investment Licensing in Indonesia

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Legal Management of Investment Licensing in Indonesia is an issue that has always been the focus of investment service policies. It is proven that one of the legal politics in managing investment problems is related to licensing. Legally, licensing issues are an aspect that is always complained of by investors, not only concerning the length of licensing out, but also concerning aspects of certainty and costs, so it is an aspect of cost transactions. In the implementation of investment in Indonesia, issues arise concerning legal aspects, local (regional autonomy), labour. This issue has implications for the issue of certainty and legal protection for investors. In positive law in Indonesia, some rules provide legal certainty and legal protection. Still, there are also rules because they do not obey the principles in drafting legislation, implicating that there is no legal certainty and protection, including in law enforcement. Therefore the need for management of investment licensing structuring. Specifically, in the regional autonomy perspective, one-stop service in granting investment licenses will only succeed if improvements are made in the legal licensing system.

Key words: *Licensing Law Management, Investment Law, Legal Certainty, Regional Autonomy*

Introduction

Law in the framework of economic growth has a significant role, which can provide support for the creation of legal certainty in various economic activities. The existence of legal certainty in various economic activities can foster trust for every economic actor because something he wants can be predicted. For example, it can predict profits from the beginning of its investment policy; this will have an impact on the decision making to determine the investment policy steps taken. The success of economic development is associated with the

role of law, which means talking about legal management. One factor in investment law that is often discussed is the issue of investment licensing.

Legal supports for the activities of the economy can be realised from the production process until the distribution process, even more until the provision of protection for consumers.

In economic activities, especially investment, there are still legal rules that are often complained about by investors. Investors' complaints, could be heard by the author since the author conducted research from 2001 when writing a thesis and in 2007, when the author completed a dissertation. These classic complaints include investment security issues, lengthy licensing issues, law enforcement issues, and so forth. With legal politics, the Government encourages the Omnibus Law on Employment Copyright, the background of which is inseparable from the problem. The Omnibus Law on Employment Copyright aims to make investment activities in Indonesia grow and develop, thus economic growth is higher with the impact of creating new jobs. Giving them the confidence to feel safe to invest in Indonesia is very important, because according to the nature of investment activities that are full of risks, then investment activities must be supported by legal management that can create predictability, fairness, efficiency. The creation of legal certainty, justice, efficiency is legal principles in a modern country, in addition to legal principles creating fairness, peace of life (Prajudi Atmosudirdjo, 1998). In addition to these internal problems, Indonesia is faced with a change in the investment climate, i.e. in addition to having signed the GATT-WTO, trade agreements at the ASEAN and Asian levels have also emerged. The rules in the GATT-WTO and their derivative rules have implications for the adjustment of various legal rules in Indonesia, including the equal treatment between foreign and domestic investors, this means that the two rules that cover investment activities must be changed. Various legal rules that may be less harmonious,[1] such as the provisions contained in TRIM's, adjustments must also be made.

On various occasions, investors have complained about investment issues in Indonesia, namely concerning legal, labour, and local aspects (Juwono Sudarsono, 2004).

From these problems, the identification of the problem is stated as follows:

1. How are the application of licensing legal management in providing certainty and legal protection for investors in the investment climate, both seen in the legal system and legal practice in Indonesia?

[1] The concept of harmony here means the balance of various interests, namely the balance of interests between the community and the authorities, as reflected in the content contained in the second and fourth paragraphs of the Preamble of the 1945 Constitution.

2. What is the legal framework to ensure legal certainty Investment in the implementation of regional autonomy which is more competitive and provides an attraction for investment activities in Indonesia?

Research Method

This research is analytical descriptive with a normative juridical approach and also conducted with an interdisciplinary approach. The normative juridical approach is used by using interpretation (grammatical and authentic). Therefore what is investigated here is the norm. Data were analysed based on qualitative norms, so in conducting interviews used as supporting existing qualitative data. In other words, the analysis of existing data was analysed based on the rules of interpretation and construction of applicable law. The analysis included (i) that one legislation with another does not conflict (ii) provisions regarding the hierarchy of legislation (iii) legal certainty, meaning whether the rules are implemented consistently.

Research Results and Discussion

Legal Protection of Investors in the National Legal System and in Law Enforcement Practices in Indonesia

A law which should have been the benchmark, a norm regarding how one should act: the legal reality is a concrete manifestation of the norms that should be implemented. The reality can occur that should be appropriate in reality, but can also be different from what they should. On the other hand, the term legal reality must also be distinguished from living law. The term legal reality in Dutch is ***"rechtswerkelikheid"***. Logemann by arguing that the law is certain (***stellig recht***) is always a specific rule (***regel***), whereas a legal reality (***rechwerkelikheid)*** is always in the form of a decision of the authorities based on the rule of law. The decision is not always the same; different decisions are caused by how to interpret the relevant legal regulations by many things. The term living law refers to laws that are actually obeyed in society, in addition to the law in the form of official or formal regulations (Wirjono Prodjodikoro, 1981).

In law enforcement, it can be distinguished among the definition of the application of the law, law enforcement and legal services. Bagir Manan gives the difference, "Law applying" is a genus or general understanding of law enforcement, and legal service. Realising a norm is not always the same as living law (Bagir Manan, 2002). In particular events, it can be seen that there are norms implemented that are violated and then applied to a rule that is in the law. For example, people make land transactions, then apply the provisions of Article 19 of Law No. 5 of 1960 jo. Article 26 Government Regulation No. 23 of 1997 concerning Land Registration, then every person who transacts a land for legality and certainty is conducted before the

PPAT. Likewise, in investment activities, since 1967, Indonesia has had laws relating to investment namely for foreign investment (PMA) or PMDN subject to the provisions of Law No. 1 of 1967 jo. Law no. 11 of 1970 and Law No. 6 of 1968 in conjunction with Law No. 12 of 1970, and now the regulation is replaced by Law No. 25 of 2007 concerning Investment. It can also be seen in concrete terms that there are processes that are not following established norms, such as taking care of permits so that they are fast, by barbing, and many actions of the apparatus and society that deviate from the rules and regulations. That is the real or concrete law. In view of understanding legal realism or critical legal understanding; that is the law.

Law enforcement is one aspect of the application of the law, is a function or act of maintaining the law so that the law is obeyed, run, or implemented as it should. Law enforcement is a reaction from events that are appropriate or against the law (Bagir Manan, 2002).

In the field of investment, law enforcement is an interesting topic. This relates whether the investment activities have the value of certainty and legal protection for investors. This is important because investors often want to have a guarantee of capital and a prediction of return on invested capital. When talking about how investments are encouraged to spur growth, in terms of management, it will speak about legal drafting, starting with the norm being designed and structured, implemented, and if there are violations that are enforced.

In juridical normative, guarantees for certainty and legal protection have been given by the Law on Investment (Law No. 25 of 2007). Guarantees for investments provided by law in the field of investment, including through **the principle of non-nationalisation**.[2] Except for the nationalisation of Dutch-owned companies in 1958, Indonesia had never taken similar actions against foreign companies engaged in investment in Indonesia. Even if there is an act of nationalisation, the law guarantees that there is an obligation from the Government to provide compensation. Compensation is given based on international law principles as is known as the principle of international law to provide compensation based on the principle of prompt, effective, and adequate.

Law is ***the main contributor*** to the validity of development activities, that is to ***provide protection, legal certainty, and justice.*** This argument is based on the understanding that

[2] The assertion that they will not take action on nationalization has been affirmed in Article 21 of Law no. 1 of 1967 said "the Government will not take action of nationalization / revocation of ownership of the whole of foreign capital companies or actions that reduce the rights to control and or take care of the company concerned, except if by law stated the interests of the state requires action thereby". Similarly, after the law was replaced with Law No. 25 of 2007 is reaffirmed as contained in Article 7 paragraph (1) "The government will not take action to nationalize or take ownership of investment ownership rights except by law.

investment activities are more attractive to create adequate investment infrastructure, including administrative and legal infrastructure, rather than providing tax incentives for long-term investment (Mochtar Kusumaatmadja, 1995). Mochtar Kusumaatmadja's statement stated that it is clear that the legal and development context places the laws and regulations as the primary source of law.

The legal context must provide a significant contributor to the validity of development activities, be able to provide legal protection and certainty, otherwise if the law does not support, or the law is compiled and/or formulated by not using ethical, legal principles, for example lacking the principle of obedience in the procedure for making rules, not obeying the principles in applying the principle of law. This will have implications for the absence of legal protection and certainty. For example, if it is associated with regional autonomy related to investment licensing. In the Law on Regional Government, of course, that is the regional authority, if there is a rule that says the authority of the permit becomes the authority of the Government (Central), then this is a conflict between norms in the equivalent law. This contradiction must be avoided because the intention is to encourage investment; it will instead create new legal uncertainty. Examples of incidents of conflicting norms, for instance, before Law No. 25 of 2007 concerning Investment and before the Local Government Law No. 23 of 2014, that is the case of the Bandung City Regional Regulation. By using the interpretation of the rules reflected in Bandung City Regulation No. 26 of 2002, there are implications of two colliding articles. Article 19 Bandung City Regulation No. 26 of 2002 said that "every PMA / PMDN permit holder who violates this Regional Regulation may be subject to administrative sanctions as follows: a) Written warning three times; b) Cancellation; c) Revocation. In other aspects of violations of this regulation, criminal sanctions may be imposed, as regulated in Article 23 of Law No. 26 of 2002. Examples of these norms, of course, when corrected do not happen again, because if you use systemic **interpretation** – harmony between one article and another, shows unclear meaning about what sanctions will be imposed, because both sanctions only emphasise if there is a violation of the Regional Regulation can be subject to administrative sanctions and or criminal sanctions. Should be given signs and qualifications which are actions that can be subject to administrative sanctions, which can be subject to criminal sanctions.

In investment activities, another important matter is related to compliance with contract matters, for example, in the case of Kartika Plaza Hotel versus PT. Amco Asia Corporation started in the implementation of the contract that was made. That the parties have agreed that if a dispute occurs, it will be brought to the ICC arbitration forum in Paris. In reality, the dispute was resolved by the ICSID forum, and the results of the decision of the ICSID Arbitration were not carried out immediately. Not implementing the results of the dispute resolution forum, is an indicator of violations of the legal protection for each party that requires constitutional protection.

Talking about the harmonisation of law, we must pay attention to the current state of political politics (Huala Adolf, 2005; Badudu-Zein, 1994). The implementation of regional autonomy has raised the problem of a problematic law. Regulators can be categorised as arrangements governing government organisations, civil administration, business activities, and social life (Robert Endi Jaweng, 2006). The last three clumps are aspects of levies in their local substance. Public services which are a government obligation are actually used as a means to obtain local sources of revenue. As a result, there are business projects. Robert Endi Jaweng proposed a solution to overcome problematic regulations, namely the principle of interrelation between functions, both at the centre and in the regions. Absence in this process results in a quality defect policy. Second, to get the quality of local regulations and get support in the implementation, the involvement of the business community in participating in formulating local regulations is absolute.

During this time, the involvement of the business world even if there is none is very minimal. Therefore in the future three conditions of deliberation must be fulfilled, namely the procedure for inclusive involvement, the active willingness of the community to be involved, and the complaint mechanism if the regulation does not accommodate the community. The fact that many Regional Regulations occur is not through the mechanism of making adequate legislation, so here there are weaknesses in the process. In making regional regulations, a lot is done by conducting comparative studies to regions that have arranged a legal relationship governed by local regulations, and then the material is used as a benchmark in drafting the local regulation. The impact of the norms that are born also do not reflect the real law or do not meet the nature of renewal and protection as the concepts of law and development put forward by Mochtar Kusumaatmadja. Legal context in such circumstances, the target of renewal is not only on the elements of society and the law but includes the bureaucracy. In this connection, Romli Atmasasmita stressed that the legal function as a means of renewal could create harmonisation between bureaucratic elements and elements of society into one container called *bureaucratic and social engineering*. So, here Law functions as *a tool of social and bureaucratic engineering* (RomliAtmasasmita, 2006).

After the birth of Law No. 25 of 2007 concerning Investment, the Government also issued a series of legal products ranging from the Economic Policy Package which aims to facilitate investment in Indonesia. Since 2014 the Government has issued 16 Economic Policy Packages. The policy is followed by various Presidential Regulation products, namely Presidential Regulation No. 97 of 2014 concerning Implementation of One-Stop Integrated Services, Presidential Regulation No. 91 of 2017 concerning the Acceleration of Business Conduct, Government Regulation No. 24 of 2018 concerning Electronic Business Licensing Services, an Indonesian Investment Coordinating Board Regulation No. 6 of 2018 concerning Guidelines and Procedures for Licensing and Investment Facilities. The package of rules is expected to be more attractive to investment activities in Indonesia.

Legal management in economic development, especially in the field of investment after the birth of the new Investment Law, was followed by various changes to the Government's authority to cancel regional legal products, namely by issuing two Constitutional Court decisions, namely Decision of the Constitutional Court No. 137 / PUU-XIII / 2015 and Constitutional Court Decision No. 56 / PUU-XIV / 2016 Minister of Home Affairs authority to cancel the law of the Regional Regulation. Therefore it is returned to the Supreme Court in accordance with its constitutional authority in the context of the cancellation of the perda.

Before the Constitutional Court's ruling, the Ministry of Home Affairs had cancelled many regional legal products, with the following categories:

1. Contrary to the regulation of the amount of tax or levy that must be collected;
2. Duplication by taxation which is the object of central tax;
3. Tax imposition results in a high-cost economy;
4. Institutions that stipulate the amount of taxes and levies should be in the form of Regional Regulations, but determined by the Regent; and,
5. Contrary to higher legislation.

The economic policy package and the Government's commitment to boost the pace of investment are increasingly visible after the issuance of Government Regulation No. 24 of 2018 concerning Electronically Integrated Business Licensing Services. Upon the Governmental Regulation, the Online Single Submission system (OSS abbreviated) came out. OSS is a Business Licensing issued by OSS Institutions for and on behalf of the Minister, leadership, institution, governor, or regent/mayor to business operators through an integrated electronic system. With this pattern of investment licensing management, it is expected that a variety of certainty and ease in investing or businesses can be solved.

However, many regions still experience problems, for example, Subang Regency and Purwakarta, West Java Province (Wina Trusiyana, 2019). West Java, "Suara Rakyat" newspaper dated July 20, 2018, contained a statement from the Head of the Investment and One-Stop Integrated Services Office (DPMPTSP), namely that "Online Single Submission (OSS) licensing system cannot be connected to the one-stop licensing system in the regions. The problem is that the OSS system does not yet have a bridge and the Licensing Services Business Number through the OSS system is available in almost all City / Regency in West Java with various implementations. In Bandung Regency, for example, there are 41 licenses through OSS permits and 73 Non-OSS services. Although based on interviews, there are still technical, operational constraints of the OSS itself, among others the question arises of who is responsible for the OSS, as an institution or attached to the position (Interviewer structured in Bandung Regency PMDPTSP Service, 6 March 2020).

By changing two Investment Law products, they are the PMDN and UUPMA Laws through Law No. 25 of 2007. The Law has accommodated various international conventions, among which the most prominent is equal treatment (non-discriminatory) and the principle of non-nationalisation. Looking at investment growth seen from the reality of investment in Indonesia from year to year have shown an increase, for example, can be seen in the realisation of investment in 2011 to 2016 as can be seen in the following table:

Table 1

	2011	2012	2013	2014	2015
New	112,6 T	161,7 T	250,8 T	323,2 T	399,1 T
Expansion	138,7 T	151,5 T	147,8 T	139,9 T	146,3 T
Total	251,3 T	313,2 T	398,6 T	463,1 T	545,4 T

The problem in structuring the legal licensing system, especially in the economic field lies in the legal culture. This is related to the system approach in the management of legal development is a problem, so the Government issued a variety of regulatory packages as mentioned above.

Structuring the legal culture in investment licensing management is very important to create an efficient and effective investment service system and the creation of a conducive investment climate. Thus, the formulation of how to create investment services that are efficient, effective, and the creation of certainty requires a set of rules that can answer the policy. And in this connection, the orientation of the government must shift from the nature of Command and Control towards the demands and needs of the public. The role of government here is more as a stimulator, facilitator, coordinator and entrepreneur in the development.

The authority to grant investment permits to the regions in the context of Regional Autonomy is very important because the economic movement is primarily located in the flow of sources of funds (Syahriel Nochtar, 2001). One source of funds is the flow of capital flows or direct investment to locals.

To increase investment, efforts are being made to facilitate investment licensing services by increasing the number of investment approval/licensing service centers. Apart from that, in line with the spirit of regional autonomy, it must also be accompanied by structuring bureaucracy.

Therefore, by looking at the types of permits that exist both in the Regency and Subang Regency, where the role of sectoral agencies has shifted to the provision of recommendations, it needs to be supplemented with an investment database that can be done.

Regarding the type of licensing system, which is an integrative, chain, or sectoral pattern. It seems that it has begun to lead to integrated permits, but it is not yet complete. The licensing system concerns the legality aspect of the permit. The legal aspects of this permit include the validity of the objectives, the validity of the authority, procedures, substance, law enforcement. Thus associated with legal protection, a permit will provide legal protection if it has legality.

Paying attention to the form of licensing service patterns, services in the field of investment are carried out in a one-roof pattern, indicating that the authority lies with their respective departments. This can result, the service only accepts the process, but cannot complete it. The impact could be that the applicant made contact with the agency where the authority is located.

In investment activities, there are 16 types of permits to be completed by potential investors for their business activities to operate. Judging from the meaning of the purpose of the permit, of the 16 types of permits in investment activities can be taken qualifications that have the same purpose. Towards the same purpose, it can be grouped as one type of permit; therefore, the type becomes simple. For example, groups of permits relating to the environment and spatial planning, permits relating to direct business, permits relating to the provision of facilities. With these qualifications, the licensing system can be simplified.

Simplification of the type of permit must also be accompanied by institutional authority. The existence of direct authority will make it easier to process and evaluate the permit. This is in accordance with what is rationality rather than permission, i.e.:

a. A permit must meet normative requirements, meaning that it can determine requirements, conduct supervision, and implement sanctions effectively.
b. Having value, this is related to legal protection;
c. Carry out managerial, which involves aspects of the bureaucracy, and service functions; and,
d. Permits related to technical feasibility.

Legal Institutions that Ensure Legal Certainty of Investment to Increase Competitiveness in Creating a Competitive and Conducive Investment System in the Perspective of Regional Autonomy

Legal institutions that can guarantee legal certainty are located in the formulation of legal institutions in the product of legislation. This is based o the legislation where it can guarantee the level of legal certainty if it is formulated under the principles, theories, and philosophy of law it contains. A law to guarantee legal certainty must not only meet formal requirements,

but there are substantial conditions that must be met, which include: 1) the formulation must be clear (unambiguous); 2) There is consistency in its formulation; 3) the use of appropriate language, and easy to understand (Bagir Manan, 2001). This is based on the meaning of institutions as a system of activities typical of patterned behaviour (the second form of culture) and its components, is the system of norms and behaviour (the first form of culture) and its equipment (the third form of culture) plus humans (personnel) who implement the patterned behaviour (Badudu-Zain, 2004). Thus an institution means an order - a system of rules.

There are two dimensions, namely certainty in law and certainty by law. This is in accordance with the nature of the law, namely the law regulates, also resolves when legal disputes occur. This is where it lies between the reported law with legal reality—the proper law and the law in its implementation.

The issue of legal institutions guarantees legal certainty. Departing from the elements in the legal system, namely regarding the structure, sub-agency, and culture. The question now is whether, with a review of the legal system, the investment regulatory arrangements have given legal certainty to invest. Given the legal structure, it is clear that with the birth of the Local Government Law after Indonesia there was legal reform, starting with an amendment to the 1945 Constitution, then followed up with changes to Law No. 5 of 1975 concerning Regional Government with Law No. 22 of 1999 in conjunction with Law No. 32 of 2004 jes Law 24 of 2012 jis Law 23 of 2014 jes Law no. 9 of 2015, the institutional investment is an instrument of authority of the Government and Regional Governments. In its implementation so that problems do not arise regarding the issue of ease of business or investment, the Government issued a series of implementation rules, including Government Regulation No. 24 of 2018 concerning Electronic Business Licensing Services, Presidential Regulation No. 97 of 2014 concerning Implementation of One-Stop Integrated Services, Presidential Regulation No. 91 of 2017 concerning the Acceleration of Business Implementation, Regulation of the Investment Coordinating Board No. 6 of 2018 concerning Guidelines and Procedures for Licensing and Investment Facilities. The rules basically want legal certainty through implementation, the principle of speed and increased investment, to create jobs and ultimately economic growth.

There are many policies since the amendment of the 1945 Constitution which replaced the previous regulation and sometimes occurred gaps, for example with the birth of Presidential Decree No. 29 of 2004, authority became the centralisation again. The impact is based on the results of the study, and regional investment institutions do not function as they should (Interview, 6 March 2020). This issue with the emergence of the issue in the Draft Law on Employment (Omnibus Law) centralistic nature is tried to be raised when the authority to

give permission there is a stagnation to invest in Indonesia. It is intended to realise the desire of investment can be the foundation of economic growth, including the regional economy.

The issue of permits in regional autonomy, whether permits can be one package such as industrial estates. Preferably with an externality authority, the authority to grant investment permits is more enumerative (detailed) so as not to cause overlapping authority. This is in accordance with the principle that the granting of authority in the presence of regional autonomy must be SMART (S = specific; M = Measurable / regular; A = Attainable / R reach; R = Reasenable; T = Timely). Permits should not only provide reinforcement to regional own-source revenue (PAD) but must be accompanied by strengthening protections for the community. It should also formulate the public domain complaint.

At present, the practical rules regarding investment implementation are regulated by BKPM, where the scope of investment services includes Licensing Services and Investment Facility Services along with their supervision of the commitment of Business Licensing.

Investment institutional organisations should do a separation between services and rule-makers. This can be seen as the Board of Investment (BOI) in Thailand. BOI must make promotion rules, including business fields that are open and closed to investment activities, especially foreign investment, and have the authority to provide fiscal and non-fiscal incentives to the business sectors being promoted. Furthermore, BOI gives authority to BOI's office to carry out the tasks given by the BOI (Investment Promotion Act and the results of a Comparative Study of Investment Policy in the Kingdom of Thailand, BKPM; Deputy Minister of Investment Climate Development, t.th). In the perspective of the legal structure in Indonesia, it can be done that the Coordinating Ministry for Economic Affairs can resemble the BOI, then BKPM as Indonesia's BOI Office.

There must be improvements in legal services. Legal services are a function of government to improve competitiveness. Several things must be considered in improving public services, namely:

a. The implementation of legal services must be carried out under the general principles of good governance;
b. Bureaucratic reform;

Steps must be taken To maximise the service function:
a. Simplification of procedures and authority of services;
b. Releasing the service function as a financial source instrument;
c. Reducing elements that are too directed to the function of supervision and control, is more directed at facilities rather than supervision;

d. Release the bureaucratic linkages from the political forces of society;
e. Fundamental rearrangement of authority relationships to prevent or eliminate overlaps, uncertainties, and so on; and,
f. Systemic planning regarding the development of human resources, both quality, welfare, charismatic, and so on (Bagir Manan, 2001).

It is necessary to organise the government as the pattern put forward by David Osborne and Ted Gaebler to improve competitiveness. The pattern put forward by David Osborn and Ted Gaebler is a New Public Management pattern that primarily focuses on management, performance appraisal, and efficiency rather than policy-oriented (Mardiasmo, 2002). The government should give authority to the community rather than serve, for example, to develop small businesses, then give authority to the small business associations to solve it themselves, the government becomes a facilitator. The concept put forward by Osborn is known as the Reinventing Government concept.

For bureaucratic reengineering in providing guarantees of public services, it is necessary to simplify the bureaucracy. In this case, to create satisfaction, therefore it is necessary to create a service system and work mechanism that can create opportunities for unprofitable practices, such as levies.

Licensing that is too bureaucratic violates the principle of public service, which is not giving prosperity to the community but burdensome. Therefore a paradigmatic approach must be taken to break the deadlock of the licensing bureaucracy. As an illustration, it can be drawn as follows: (TalijiduhuNdraha, 2001).

Pardigma I ------ Normal birokrasi ------ Anomali ----- Crisis -------- Revolusi ------- Paradigma II

The paradigm I can be illustrated that licensing applied in Indonesia uses a centralistic pattern and it takes place during a centralistic government which has given birth to 7.8% economic growth, but in reality, it is complained by business actors. There is a conflict against centralism and gives birth to regional autonomy. There is a multidimensional crisis of the revolution in the field of licensing, the concept of one-stop service appears, but the licensing is still sectoral. In the new paradigm (II), licensing should not only be integrated services, but the licensing system is directed into a pattern that supports one-stop or integrated services, namely formulated in an integrative or chain form.

In the investment framework, investment licensing is an investment legal sub-system. Within the subsystem, there are sub-system licensing, which includes functions, the authority of the licensor, scope of permits, procedures, and sanctions. The function of investment licensing

should not be used as a means of income, but as a controller, director, community engineer (Sjahran Basah, 1996). It departs from the sub-licensing system, that the permit has the function of controlling, manipulating towards a prosperous society and the ideals of the law was born, namely order.

In terms of legal structure, in the Investment Law, there are also principles which support legal certainty. This can be seen in Article 3 paragraph (1), which states:

" Investments are held based on principles:

a. Legal certainty;
b. Openness;
c. Accountability; and
d. The treatment is the same and does not distinguish the country of origin".

With the inclusion of legal certainty in the body of Law Investment, means that legal certainty is not only a legal principle but has become the rule of law. In the Investment Law, it is stated that there are legal principles, namely legal certainty, Openness, Accountability, and same treatment and do not differentiate from the national origin (national treatment and non-discrimination), it also needs to be supported by facilitation policies with taxation, labour laws, and government affairs in the field of investment.[3] With the replacement of Law No. 32 of 2004 by Law no. 23 of 2014, as lastly amended by Law No. 2015, it is increasingly clear the politics of investment management, particularly the authority to grant capital investment licenses in the regions. In Article 16 of the Investment Law, it is said that in implementing the provisions of this law, a non-departmental institution was formed in the field of investment by Presidential Decree. So here there is a separation between policy-making institutions and investment regulations, and the institutions that carry out these rules. This is similar to what is in Thailand with the BOI and its BOI office.

Noting the substance of the formulation in the Law has the spirit to create effectiveness and efficiency; however, there is still authority that is still given to sectoral agencies. This fact has been breached with OSS independence because Investment licensing services must go through the One-Stop Integrated Service mechanism with an online system, the impact of which must be a cultural orientation in Investment licensing services.

It is necessary to simplify the investment legal system to increase attractiveness, especially in the implementation of regional autonomy, namely an obligation to create a model that contains the following simplifications:

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3 Statement of the Government in submitting the Investment Bill to the House of Representatives, November 2005, p. 3-4.

1. Simplifying institutional authority including the authority to grant investment licenses;
2. The form of investment law should reduce various legal rules relating to investment activities, such as determining the value of tax facilities, permit management fees; thus it becomes clear and transparent; and,
3. Simplification of types of investment permits, from the sectoral licensing system to the chain or integrated licensing system, including the simplification of the number and form of permits.

With these various simplifications, in the form of services, it is also necessary to harmonise with the form of simplification of licenses that are still sectoral. If successful, then in the investment sector, especially licensing, has changed the paradigm model, as stated by Thomas Khun.

Conclusion

Based on the results of the discussion above, it can be concluded:

1. By structuring investment licensing, a condition will be created in which the investor will feel a guarantee of certainty and legal protection to answer the predictability of capital investment activities.
2. The online licensing system is encouraged to change the mindset of the community; therefore, the culture of licensing services must also change the orientation of the culture must meet, with the culture of electronic services.

Suggestions

1. Reforms in the rule of law relating to investment need to be made, especially the harmony between rules in a hierarchical or horizontal manner to create a degree of certainty and legal protection. Legal certainty can also be provided by providing databases on information systems geography and demographic information systems;
2. There is a need for harmonisation of central and regional regulations regarding the implementation of investment policies; and,
3. It is necessary to simplify the types of investment permits, not just simplifications in investment services. Simplification of service will succeed if supported by simplification in the licensing system. For this reason, a licensing system needs to be developed that is more reassuring and supportive and does not cause bias in the level of implementation, namely with an integrative licensing system. In this case, under the authority of the central externality, the government can create licensing standards.

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