

LEGAL STUDY IN INVESTMENT SUPERVISION POLICY

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Abstract : *This research is motivated by the existence of Law Number 25 of 2007 concerning Investment which states that "provides protection, rights and legal certainty for investors, both foreign investors and domestic investors, in carrying out investment activities to increase national economic growth, creating jobs, encouraging the development of the people's economy, and increasing the competitiveness of the national business world." The role of law is very much needed in creating legal certainty to invite investors to enter Indonesian territory. The One Stop Integrated Services and Investment Service is one of the State Institutions which operates in the field of managing business permits. There are 23 types of business permits served by the Brebes Regency DPMPTSP. This is based on Brebes Regency Regional Regulation No. 003 of 2017 concerning Delegation of Authority to the Investment and One-Stop Integrated Services Service. The aim of this research is to find out the role of DPMPTSP in increasing investment in Brebes Regency and how government policy is in creating legal protection for investors in Brebes Regency. The data collection techniques used by the author in this research are literature study and direct observation to fulfill relevant legal materials. This type of research uses qualitative research. The results of this research show the policy of the Brebes Regency Investment and One-Stop Integrated Services Service in increasing investment in Brebes Regency as well as the government's policy in creating legal protection for investors in Brebes Regency.*

Keywords: Investment; Policy; Government

I. INTRODUCTION

Brebes Regency is the 3rd largest district after Wonogiri district and Cilacap district in Central Java, with all the natural resource potential and strategic position. Of course, Brebes district is one of the districts that is trying to improve the regional economy through regional autonomy by attracting foreign investors to invest in Brebes district. As written in Article 1 Paragraph (1) of Law Number 25 of 2007 concerning capital investment "Investment is all forms of investment activities, both by domestic investors and foreign investors to conduct business in the territory of the Republic of Indonesia" Since In 2011, domestic investment and foreign investment continued to increase. The increase in Domestic Investment and Foreign Investment is directly proportional to the Economic Development Index (Shem Dwi Nehemia, 2021)

Currently, Brebes district is supported by complete infrastructure, including quite good facilities and infrastructure. And with the many natural resources and human resources that are ready to be developed. Of course, this cannot be separated from the role of regional governments through the policies they make. The One Stop Integrated Services and Investment Service is one of the State Institutions which operates in the field of managing business permits. There are 23 types of business permits served by the Brebes Regency DPMPTSP. This is based on Brebes Regency Regional Regulation No. 003 of 2017 concerning Delegation of Authority to the Investment and One-Stop Integrated Services Service.

Regional economic growth driven by investment activities will of course have a positive effect on the region, which means it will open up job opportunities for the community and increase regional income in the form of taxes and levies. Through autonomy, regions will become more active in exercising their authority in promoting their regional potential by inviting investors to invest. To carry out comprehensive and sustainable regional development, local governments need support from the private sector. For this support, local governments need to create policies that support investment that will be mutually beneficial for investors, local governments and the community. Good government is able to take the right policies for better economic targets. Apart from good government, strong government is also important for the welfare of society. Looking to the future, it will have an impact on markets, both regional and international markets. The definition of foreign capital is capital from foreign countries, foreign individuals, foreign business entities, foreign legal entities, along with Indonesian legal entities which are partly or wholly foreign owned (Ana Rokhmatussa'dyah & Suratman, 2011)

One important thing for achieving quality development is investment. There is no (economic) growth without investment. Why is investment so important for development? Because investment can see its effect on growth by encouraging output levels and employment opportunities, and its effect on capital formation in the long term will increase potential output and maintain growth. Hamid, E.S., Indonesian Economy: from Centralization Towards Decentralization, Yogyakarta: UII Press, 2006, p. 166] In Article 1 number (1) of Law Number 25 of 2007 concerning Capital Investment, it is stated that investment is all forms of investment activities, both by domestic investors and foreign investors to carry out business in the territory of the Republic of Indonesia.

Based on the source, investment is divided into two, namely Domestic Investment (PMDN) and Foreign Investment (PMA). Regional autonomy is believed to be the best way to encourage regional development. Because through regional autonomy, it is hoped that independence in carrying out development in accordance with regional capacity and needs can be carried out more effectively and efficiently (Osborne, D. dan Plastrik, P., 2000). The hope is that with regional autonomy, investment activities can be responded to positively, quickly and well by regional governments. One of the essences of regional autonomy as stated in Law No. 9 of 2015 concerning the second amendment to Law Number 23 of 2014 concerning regional government is that regional cooperation between district/city regional governments and foreign

parties includes cooperation between twin districts/cities. , technical cooperation including humanitarian assistance, cooperation on the continuation of loans/grants, cooperation on capital participation, and other cooperation in accordance with the provisions of laws and regulations.

Brebes Regency has a wealth of natural and human resources with a population of around 1.8 million people. Brebes Regency has 60,643 ha of rice fields and also 43,861 ha of forest. The strategic geographical location and characteristics of natural resources mean that the economic structure is dominated by the agricultural, plantation, processing industry, trade, hotel, restaurant and tourism sectors. With a Gross Regional Domestic Product (GRDP) value of IDR 17,376,797.

Brebes Regency is not only a market, but also a producer considering the large amount of wealth that Brebes Regency has. However, to make this happen, capital requirements are the main requirement that must be met. Domestic investment (PMDN) and foreign investment (PMA) are urgently needed.

II. RESEARCH METHODS

In this research the author carried out research activities using the positivism paradigm. The approach method used in this research is a normative juridical approach. Sources of legal materials in research can be divided into primary legal materials and secondary legal materials. In this research, the method used in the data collection process is literature study, scientific work and relevant official documents which are researched and identified as a unified whole. The data that has been obtained from the results of this research is compiled and analyzed qualitatively, then the data is described descriptively in order to obtain a picture that can be understood clearly and directed to answer the problems studied (Ronny Hanitijo Soemitro, 1983).

III. RESEARCH RESULTS AND DISCUSSION

1. Brebes Regency Regional Government Policy in Increasing Investment in Brebes Regency

Currently, the Brebes Regency Government in its efforts to increase investment in the region needs to carry out intensification and extensification activities, improving the provision of excellent services through the formulation of strategic planning, with the formulation of strategic planning confirmed to all levels of employees and stakeholders, it is hoped that the challenges of regional government climate change can be anticipated. Policies in the investment sector are basically aimed at increasing regional capabilities in inviting investors to enter Brebes Regency. And what is no less important, the political and security situation at that time was relatively more stable, which encouraged investment to become more enthusiastic and show a significant increase (David Kairupan, 2013).

Regarding policy, Article 12 paragraph (4) of the Investment Law gives the government the authority to determine investment requirements in business fields that are open to investment. Furthermore, paragraph (5) stipulates national interest criteria that must be taken into account in determining investment requirements, namely protection of natural resources, protection of the development of micro, small, medium and cooperative enterprises, supervision of production and distribution, increasing technological capacity, participation of domestic capital, as well as cooperation with government-appointed business entities. [Irham Fahmi, "Introduction to Capital Markets", Bandung: Alfabeta, 2017 p.35] Brebes Regency Investment and One-Stop Integrated Services Service which is an implementing element of government affairs with the task of carrying out autonomous authority regions in managing aspects related to increasing investment and licensing services in Brebes Regency.

The authority given to regions will have consequences for the region's ability to anticipate community demands for better and more excellent services. For this reason, regions

must provide adequate sources of financing and require regional creativity and the ability of regional officials to explore regional potential so that they can increase investment in the region. In general, the role and function of the Brebes Regency Investment Service has produced maximum results with the presence of investors. foreigners invest their capital. This cannot be separated from regional policies and roles, related technical institutions and community participation so that a conducive investment climate is created in the regions. The main policies to attract investment include;

1. One-stop service to facilitate investor service;
2. Tax relief implemented in Integrated Economic Development Zones;
3. Ease of licensing in the form of shortened procedures;
4. Availability of educated and trained local workers;
5. Cooperation and support of indigenous communities in the form of equity participation;
6. Security conditions that are conducive to investment;
7. Pro-active and proportional investment promotion;
8. Availability of data and Accurate information;

The term investment can be related to various types of activities, which in general investment can be categorized into two types, namely Real Assets and Financial Assets. Real assets are tangible such as buildings, vehicles and so on, while financial assets are documents (letters) of the holder's indirect claims on the real assets of the party issuing the securities. For investors who are smarter and more willing to take risks, the investment activities they undertake can also include investments in other more complex financial assets such as warrants, options and futures as well as international equities. According to representatives from DPMTSP, in 2014, the realization value of foreign investment was not successful due to political stability in that year. 2014 was a political year where the presidential election took place and was a period of leadership transition and because the elections in Indonesia were gradual. When the Regional Government of Brebes Regency enters the election season, political stability in the region will also be indirectly disrupted.

When a head of state, government or regional head changes, policies in that region tend to experience changes. That is one of the factors why in 2014 investment in Brebes Regency was not successful in achieving its realization value because investors tended to wait and see. Investors were not willing to take risks when investing their capital, but after that policy changes occurred. Investors tend to refrain from investing before knowing how the new policy will be determined by the new leader.

Increasing investment activities in the regions is basically not only the responsibility of the regional government, but also the responsibility of the central government. This conception arises based on an understanding based on the concept of a unitary state, therefore the existence of a synchronized vision and mission between the central and regional governments while still prioritizing the welfare of society as a whole should be the main basis for realizing policies in the investment sector. In implementing capital investment, it is necessary control is carried out, namely by carrying out monitoring, guidance and supervision of the implementation of investment in accordance with the rights, obligations and responsibilities of investors. If control over the implementation of capital investment is achieved, the implementation of capital investment will run smoothly and on time, and investment realization data will be available (Suhendro, 2005).

To achieve investment goals, efforts need to be made to attract investors in order to increase investment in Brebes Regency, so concrete steps need to be taken. The steps taken by DPMTSP to attract investor interest are as follows:

1. Legal certainty

The issue of legal certainty is a pressing issue related to efforts to attract investment. The main thing is the inconsistency of a number of legislative products with the law. At the

regional level, there are many regional regulations on levies and regional taxes that conflict with statutory regulations, and in the regions there is often prolonged bureaucracy that hampers investment activities.

2. Licensing Coordination

The issue of legal certainty is a pressing issue related to efforts to attract investment. The main thing is the inconsistency of a number of legislative products with the law. At the regional level, there are many regional regulations on levies and regional taxes that conflict with statutory regulations, and in the regions there is often prolonged bureaucracy that hampers investment activities.

3. Online Single Submission (OSS)

For the sake of fast, careful, easy service and with sincerity, the Brebes Regency Government has implemented OSS based on Republic of Indonesia Government Regulation No. 24 of 2018 concerning Electronically Integrated Business Licensing. By implementing this system, service can be made easier and the licensing time can be shortened. By implementing this system, it is hoped that investors will be more interested in investing their capital in Brebes Regency.

4. Regional Potential Information

Regional governments must identify the specificities of each regional segment, both its natural conditions and the characteristics of its population. Apart from that, the local government provides information services to potential investors regarding the potential of existing natural resources so that investors have an idea of the type of business they are running.

5. Promotions and Exhibitions

Promotional strategies in the form of exhibitions are a very important forum for promoting potential and investment opportunities for business actors or investors who want to invest their capital in Brebes Regency. The exhibition is also a platform that bridges the Brebes Regency Government to be able to get closer to investors, both local, regional, national and international. And an indicator of the success of a promotion is an increase in incoming capital investment in Brebes Regency.

Increasing investment activities also requires a more real explanation of the vision and mission. This description of the vision and mission can be explained through a strategy to encourage investment activities in the regions. So far, in the regions there have been several strategies implemented in the framework of encouraging investment activities, namely:

1. Utilization of regional authority and potential, policies developed in managing regional authority and potential which include, among other things, geographical aspects, natural potential, population/human resources, built infrastructure, culture and other social systems aimed at restoring and increasing regional economic growth.
2. Development financing synergy, the source of development financing is a very strategic factor in supporting the implementation of development in the region.
3. Cooperation between regions, competition to attract investment in the country no longer occurs only between provincial regions, but also between districts/cities, where competition tends to become sharper over time.

2. Brebes Regency Regional Government Policy in Creating Legal Protection for Investors in Brebes Regency

Law must be able to become a priority order for constructing the values of justice, predictability and usefulness. Legal policies through legislative products often respond to national interests. So there must be a balance of national and global interests. Law Number 25 of 2007 concerning Capital Investment should reflect these problems (Endang Sutrisno, 2007). The definition of investment in the Investment Law also includes non-business entities and the

state as a legal entity, so that what is meant by investor is a particular individual or legal entity that is permitted to invest in domestic or foreign investment.

Good governance is very important and a challenge for the government to develop new policies to create a climate of professionalism, especially regarding the development of regional autonomy. This is also supported, according to the United Nation Development Program (UNDP), which defines Good Governance as a synergistic and constructive relationship between the State, the private sector and society, in the principles of; participation, rule of law, transparency, responsiveness, building consensus, equality, effectiveness and efficiency, responsibility. It is further explained in the journal *The Influence of Good Government Governance and Accountability on the Performance of Government Agencies*, accountability contains the obligation to present and report all actions and activities, especially in the field of financial administration, to higher parties. In short, Accountability can be seen as a benchmark, or indicator. Benchmarks, or performance measurement indicators, are the obligation of individuals and organizations to be accountable for their performance achievements through measurements as objective as possible (Agus Dwiyanto, 2006).

The government's efforts to provide protection include legal certainty and infrastructure improvements as well as ease of licensing procedures, etc. Legal certainty regarding investment is regulated in Law Number 25 of 2007 concerning Capital Investment which seeks to accommodate current developments, where the previous regulation was Law Number 1 of 1967 jo. Law Number 11 of 1970 concerning Foreign Investment and Law Number 6 of 1968 jo. Law Number 12 of 1970 concerning Domestic Investment is felt to be no longer in line with current developments.

Certainty is a matter (state) that is certain, provisions or provisions. Laws must essentially be certain and fair. It must be a guide to behavior and is fair because the code of behavior must support an order that is considered reasonable. Only because it is fair and implemented with certainty can the law carry out its function. Legal certainty is a question that can only be answered normatively, not sociologically (Dominikus Rato, 2010).

Normative legal certainty is when a regulation is created and promulgated with certainty because it regulates clearly and logically. Clear in the sense that it does not give rise to doubt (multiple interpretations) and is logical. It is clear in the sense that it forms a system of norms with other norms so that it does not clash or give rise to norm conflicts. Legal certainty refers to the application of law that is clear, permanent, consistent and consistent, the implementation of which cannot be influenced by subjective circumstances (Cst Kansil, Christine, S.T Kansil, Engeline R, Palandeng dan Godlieb N Mamahit, 2009).

Regarding Legal Certainty, Chapter IV Article 5 of Law Number 25 of 2007 concerning Capital Investment explains the form of business entity and the position of investment. Foreign Investment (PMA) must be in the form of a limited liability company based on Indonesian law and domiciled within the territory of the Republic of Indonesia. This has different provisions from Domestic Investment (PMDN) which states that Domestic Investment (PMDN) can be carried out in the form of a business entity in the form of a legal entity, unincorporated legal entity or individual business. Foreign investment (PMA) must be in the form of a limited liability company (PT) because it is one of the government's efforts to provide legal certainty in the implementation of foreign investment (PMA). The legal certainty instruments provided in PT as regulated in Law Number 40 of 2007 concerning Limited Liability Companies (Dhaniswara K. Harjono, 2006).

Economic activities, especially investment, still have legal regulations which investors often complain about, including investment security issues, licensing procedure issues, law enforcement issues, labor/labor issues which until now continue to grapple with wage and contract labor/labor issues (outsourcing), as well as various other issues. As a result, investment in Indonesia is categorized as being in an uncomfortable situation. However, in

accordance with the nature of investment activities which are full of risk, investment activities must be supported by rules that are able to create predictability, fairness and efficiency. The creation of legal certainty, justice, efficiency are legal principles in a modern country, in addition to legal principles creating fairness and calm (Prajudi Atmosudirdjo, 1998).

Brebes Regency Government Policy in order to create legal protection and justice for investors, including:

1. Simplify the process and procedures for licensing and approval for investment, both foreign and domestic investment.
2. Improving various legal products by ensuring a healthy and conducive investment climate.
3. Improving the duties, functions and authority of relevant agencies to provide better services.

Protecting capital market investors from capital market crimes requires full disclosure. The principle of information disclosure is a fundamental principle that must be present in investment activities. In creating a good investment environment, you need to use several strategies, namely:

1. Make various regional regulations that guarantee protection and legal certainty for foreign investment entering the region and not make regional regulations that actually create investment barriers, and the implications created will naturally guarantee protection for foreign investment.
2. Make regional regulations that are consistent with each other and policies that do not change and vary regarding the same main matters.
3. Make regional regulations that make it easier for the business world to carry out business activities as well as regional regulations that are flexible regarding the entry of the business world into Brebes Regency.
4. And will guarantee strict and transparent law enforcement.

Assessing the strengths of the region by identifying the availability of competitive commodities, market potential, ease of access, distribution channels and workforce skills, preparing incentive packages, preparing supporting infrastructure such as road facilities, clean water, electricity and so on and the government will continue to try to provide best for investors, be they foreign investors or domestic investors. Realizing the importance of foreign investment in Brebes Regency, the Brebes Regency government must create an investment climate that is able to provide comfort and security to investors by issuing regulations regarding foreign investors and government policies, which basically do not harm national interests and the interests of investors.

The role of regional government alone is not enough in ensuring legal certainty in order to realize legal protection for foreign investment. It must be accompanied by the role of the central government, so that it will support the entry of foreign investment into a region. Increasing foreign investment in Indonesia does not come by itself, this is requiring hard work to create a conducive investment climate.

IV. CONCLUSION

Efforts to increase investment in the regions require intensification and extensification activities, improving the provision of excellent services through the formulation of strategic planning. By formulating strategic planning which is confirmed to all levels of employees and stakeholders, it is hoped that the challenges of climate change in regional government can be anticipated. Protecting investors, one of the important elements is full disclosure. The principle of information disclosure is a fundamental principle that must exist in investment activities. The government must also be able to put forward regulations that are able to create predictability, fairness and efficiency. Brebes Regency Government in order to create legal protection and justice for investors by simplifying the process and procedures for licensing and approval for investment, both foreign and domestic investment, perfecting various legal products by

guaranteeing a healthy and conducive investment climate, as well as improve the duties, functions and authority of related agencies to be able to provide better services.

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