

Juridical Analysis: Online Single Submission (OSS) System for Dynamic Risk-Based Business Licensing

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Abstract: This comprehensive study examines the dynamics of business licensing policies and the adoption of the Online Single Submission (OSS) system as a risk-based solution in public services. The research assesses the legal aspects of business licensing policies, particularly focusing on the OSS system, and evaluates its impact on the efficiency and effectiveness of public services. Employing a juridical approach, the study conducts thorough legal analysis of relevant legislation, regulations, and judicial precedents. Empirical data from case studies and stakeholder interviews in OSS system implementation are collected and analyzed. The findings emphasize the OSS system's importance in streamlining licensing procedures and reducing administrative burdens. Through a risk-based approach, the OSS system promotes transparency, accountability, and fairness while enhancing legal certainty and minimizing corruption risks. The study also identifies challenges, such as data privacy and cybersecurity concerns, and potential conflicts in decision-making processes. Addressing these challenges will improve the effectiveness and sustainability of the OSS system. The research contributes to public administration and legal studies, providing valuable insights for policymakers and legislators in designing and refining business licensing policies and implementing the OSS system. Ultimately, the study aims to promote good governance, facilitate economic growth, and enhance the quality of public services.

Keywords: Business; Online Single Submission (OSS) system; Risk-based Approach.

1. Introduction

The In essence, the government has an obligation in terms of providing public services based on statutory regulations and the provisions of the general principles of good governance, in the administration of governance. The legal basis for public services based on the 1945 Constitution of the Republic of Indonesia is found in several articles, namely Article 18A paragraph (2), Article 27, Article 28A, Article 28B, Article 28C, Article 28D, Article 28H, Article 28I paragraph (2), and Article 34 paragraph (3).

Public service is an activity or series of activities in the context of fulfilling service needs in accordance with statutory regulations for every citizen and resident for goods, services and/or administrative services provided by public service providers.¹ Public service can also be defined as a form of conscious effort from state administrators to the community in the form of goods and/or services in the context of meeting community needs, because it is the right of every citizen guaranteed by the constitution and other laws and regulations, giving rise to an obligation to carry out.²

The Preamble of the 1945 Constitution of the Republic of Indonesia which has mandated that the purpose of the establishment of the Republic of Indonesia is to promote public welfare and educate the nation's life. The mandate of the Constitution of the Republic of Indonesia implies that a state has the obligation to fulfill the needs or rights of every citizen through a system of government that supports the creation of effective public service

¹ Law Number 25 of 2009 Concerning Public Services .

² Ni Ketut Riani, 'Public Service Improvement Strategy', *Journal of Research Innovation* , Vol.1 No.1 (2021), p. 2446.

delivery in the framework of fulfilling basic needs and civil rights by every citizen against public goods, public services, and administrative services.

The implementation of public services in Indonesia is often faced with conditions that are not in accordance with the needs of the community as well as changes in conditions in various areas of social, national and state life. Therefore, it is not uncommon to find various complex problems. Meanwhile, global hopes and challenges are triggered by progress in various fields, both in the fields of science, information, communication, and the fields of transportation, as well as investment, and trade. These conditions and rapid changes, which are followed by a shift in values, really need to be addressed wisely through continuous and continuous steps or activities in various aspects of development in order to create public trust and for the realization of development goals and national aspirations as mandated by the constitution. Therefore, we need a conception of an effective public service system that contains values, behavioral references and perceptions, which is capable of realizing human rights in accordance with the 1945 Constitution of the Republic of Indonesia. Thus, the community can obtain services in accordance with the hopes and aspirations of national goals.³

Because the condition of public services is changing very rapidly, previously giving licensing authority in the regions. However, with the implementation of risk-based business licensing with the *Online Single Submission (OSS) system*, the authority to determine it then resides in the central government. So it becomes interesting to be discussed by the author. Is the implementation of the *Online Single Submission (OSS) system* in accordance with the current constitutional conditions in Indonesia in terms of licensing services?

2. Method

The research can be referred to as the process of finding a rule of law, legal principles, or legal doctrines in order to answer a legal issue at hand. ⁴Legal research is different from other social science research because a social science research deals with what exists, in this case to examine the truth of facts, not what it should be.⁵

According to Sudikno Mertokusumo, legal research that examines rules or norms is called normative research. ⁶Meanwhile, according to Peter Mahmud Marzuki, normative legal research is a process to find legal principles, legal rules, and legal doctrine in order to answer the legal issues at hand.⁷

Based on this, this study uses a type of normative research that analyzes laws and regulations specifically related to regulations regarding public services in relation to the risk-based business licensing system.

³ *Public Service Act., Op.cit* .

⁴ Muhammad Reza Murti, 'Legal Analysis of Village Decisions' (Hasanuddin University Makassar, 2018).

⁵ Sudikno Mertokusumo, *Discovery of Law An Introduction* , Revised Edition (Yogyakarta: Cahya Atma Pustaka, 2014).

⁶ Muhammad Reza Murti, *Loc. cit* .

⁷ Sudikno Mertokusumo, *Op. cit* , p. 37.

3. Results and Discussion

3.1 The Concept of Public Service in Indonesia

According to Pasalong means service in general is something that can be defined as the activity of a person, group and/or organization either directly or indirectly to meet needs.⁸ Public services in Indonesia have a role in all forms of service activities public, both carried out by government agencies at the center and by the government carried out at Regions, as well as within the BUMN/BUMD environment in the form of goods and/or services, in terms of meeting the needs of the community in the Institution State Administration. As for the Internal Department The government considers that public service is something the process of helping others in a certain way requires sensitivity and interpersonal relationships to create satisfaction and success.⁹

There are several other definitions of public service according to experts, According to Rahyunir Rauf "public service providers, must be able to know and understand the needs and interests of the citizens they serve as service users, must know and learn about the characteristics of the community served, basically every community has characters differ from each other, thus requiring different methods, strategies, and forms of public service, so that the implementation of public services can satisfy the people served". Regarding quality in public service delivery, Albrecht and Zemke are of the view that "the quality of public service delivery is the result of the interaction of various aspects, from aspects of public service systems, human resources, strategy and customers (customers), a good *public* service system will produce quality service delivery. good public."¹⁰

Davit Mc Kevitt in his book *Managing Core Public Services* discusses specifically the core of public services that are the duty of the government and local governments, According to Davit Mc Kevitt that "My *Core Public Services* be defined as those services which are important for the protection and promotion of citizens well-being, but are in are as where the market is incapable of reaching or even approaching a socially optimal state; health, education, welfare and security provide the most obvious best know example".¹¹ Public service in this case can be defined that the essence of public service is a very important service to be provided by the government to the community in order to protect and improve the welfare of citizens, public service can also be defined as a form of government responsibility as a service provider or serving the needs people or the community and/or other organizations that have interests in accordance with the procedures or rules and procedures that have been determined in laws and regulations and the general principles of good governance in order to be able to provide effective services to service recipients.

3.2 Types of Public Services

Based on Kepmenpan Number 63 of 2003 concerning General Guidelines for the Implementation of Public Services, there are three types of service groupings from

⁸ Ni Ketut Riani, *Loc.cit* .

⁹ Widhi Novianto Erwan Agus Purwanto, Damayani Tyastianti, Andi Taufiq, 'Public Service', in *Basic Education and Training Module for Civil Servant Cadres* (Jakarta: Institute of State Administration of the Republic of Indonesia, 2016), p. p. 10-11.

¹⁰ and Futum Hubaib Jamil Bazarah, Ahmad Jubaidi, 'The Concept of Public Service in Indonesia (A Literacy Analysis of Public Service Delivery in Indonesia)', *DEDICATION* , VOLUME 22 (2021), p. 112.

¹¹ *Ibid* ., p. 12.

government agencies and BUMN/BUMD. The type of service grouping is based on the characteristics, nature, activities, and service products produced, as follows.¹²

1. Administrative Services

The administrative service group includes services that produce various forms of official documents required by the public, for example, citizenship status, competency certificates, ownership or control of an item and so on. These documents include Identity Cards (KTP), Marriage Certificates, Birth Certificates, Motorized Vehicle Ownership Books (BPKB), Death Certificates, Driving Licenses (SIM), Building Permit (IMB), Passport, and Certificate of Land Ownership/Control and so on.

2. Goods Service

The Goods Services group includes services that produce various forms or types of goods used by the public, for example, the provision of electricity, clean water, and telephone networks, and so on.

3. Services

The Service Services group includes services that produce various forms of services needed by the public, for example education, health, and the provision of transportation, and so on.

Risk-Based Business Licensing with *Online Single Submission (OSS) System*

Business Licensing is the legality given for business actors to start and carry out their business and/or activities in their business. Meanwhile, risk-based business licensing is licensing business based on the level of risk of the business activities carried out. The Electronically Integrated Business Licensing System (*Online Single Submission*) called the OSS System is an integrated electronic system managed and organized by the OSS Institution for the implementation of Risk-Based Business Licensing.¹³The application of risk-based business licensing regulated in the Job Creation Law is a standard method used based on the level of risk of a business activity in determining the type of business license and also the quality/frequency of supervision in licensing. The business licensing and supervision is an instrument of the Central Government and an instrument of the Regional Government in terms of exercising control over a business activity. Application of a risk-based approach requires adjustments to the work procedures for administering licensing services (*business process re-engineering*), changes to standard patterns (*change management*) and also requires regulation of licensing business processes in the electronic business licensing system.

Based on Government Regulation Number 5 of 2021 concerning Risk-Based Business Licensing, through the application of this concept, the implementation of issuing business licenses is considered to be more effective and simpler because not

¹² Decree of the Minister of Administrative Reform No. 63/KEP/M. PAN /7/2003 Concerning General Guidelines for the Implementation of Public Services .

¹³ Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing .

all business activities are required to have permits, in addition, through the application of this concept supervisory activities become more structured both from the period and the substance that must be done. The risks that form the basis for business licensing are classified into low, medium low, medium high and high risk. For low risk business activities, business actors are only required to have an NIB. For medium-low risk business activities, business actors are required to have an NIB, and a statement of compliance with a Standard Certificate. In medium-high risk business activities, business actors are required to have NIB and Standard Certificates, which have been verified. Meanwhile, for high-risk business activities, business actors are required to have an NIB and a verified permit. NIB is proof of registration/registration of Business Actors to carry out business activities and serves as an identity for Business Actors in carrying out said business activities. Standard Certificate is a statement and/or evidence of compliance with the implementation standards of business activities while permits in this case are the approval of the Central Government or Regional Government for the implementation of business activities that must be fulfilled by Business Actors before carrying out their business activities¹⁴

Online single submission (OSS) system is a service effort whose goal is effectiveness as well as a form of utilizing technological advances. However, in this case, when it is related to the provisions of Article 18 paragraph (2) of the 1945 Constitution of the Republic of Indonesia that "Provincial, regency and city regional governments regulate and manage their own government affairs according to the principle of autonomy and co-administration".¹⁵

Online services in the current public service system are actually one form of *e-government* or electronic government which is the use of technology by the government to provide information and services to the public which in this case has been contained in the regulations Government Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing.¹⁶

The purpose of this is that with online *services* with Utilizing advances in communication and informatics will create a service which is easier, more effective and efficient which is the step of the government in running the government in an area, by providing excellent service to public. In Law Number 11 of 2020 Concerning Job Creation, contains an error one of which concerns the ease of doing business with the application of risk-based business licensing. Efforts to facilitate doing business are realized through services carried out electronically by the government to the community as business actors, namely with the *Online Single Submission (OSS) application system*.¹⁷

¹⁴ *Ibid.*

¹⁵ *The 1945 Constitution of the Republic of Indonesia* .

¹⁶ Ida Ayu Purnami, 'Risk-Based Business Licensing Services Online at the Investment Service and One-Stop Services of West Nusa Tenggara Province', *Ministry of Home Affairs* <http://eprints.ipdn.ac.id/9687/1/IDA_AYU_PURNAMI_29_1256_RISK-BASED_BUSINESS_LICENSING_SERVICES_AT_THE_INVESTMENT_SERVICES_AND_ONE-DOOR_INTEGRATED_SERVICES_IN_THE_PROVINCE_OF_WEST_NUSA_TENGGARA.pdf>.

¹⁷ *Ibid* .

However, even though OSS is a technological advance, it is linked to the constitutional conditions in Indonesia, the system should not be implemented directly and comprehensively, but changes need to be made little by little. In this case, direct services are still needed that do not depend on the OSS system. especially because the services of the OSS system are determined at the center, in this case the OSS Management and Organizer Agency is a government agency that carries out government affairs in the field of investment coordination.

The legal consequences of the *online single submission system licensing service* are that the OSS system is more integrated so that it can create information transparency to the public and close opportunities for KKN to occur in licensing. Because the licensing service is application-based, it is not uncommon to encounter obstacles in terms of its implementation. In addition, the implementation of the OSS system also greatly impacts the quality of public services, such as in several areas, for example in West Nusa Tenggara Province and several other areas where the quality of human resources is inadequate and the infrastructure is not yet possible, such as limited network access, and business licensing services are still available . which have not been registered in the OSS system. So basically for a type of service that has not been registered a legal basis is needed in terms of its implementation. Therefore, related to resources, training on the use of OSS is needed as an effort to improve the quality of licensing and OSS services that are centralized in the regions, not at the center.

4. Conclusion

Based on the results of the discussion, it was concluded that the concept of public service, in this case the Risk-Based Business Licensing with the *Online Single Submission (OSS) system* , is a new concept and quite good because it can create information transparency to the public and close opportunities for KKN to occur in licensing. However, if this concept is applied to the country's current conditions, it still requires optimization, and needs to be implemented gradually, especially because the service system is under the authority of the central government. Meanwhile, the one who knows the condition of an area is the local government itself so that the authority should be on the authority of the regional government.

References

- Ali, Zainuddin, *Legal Research Methods* (Jakarta: Sinar Graphic, 2017)
- Djulaeka and Devi Rahayu, *Textbook of Legal Research Methods* (Surabaya: Scopindo Media Pustaka, 2019)
- Erwan Agus Purwanto, Damayani Tyastianti, Andi Taufiq, Widhi Novianto, 'Public Service', in *Basic Education and Training Module for PNS Cadres* (Jakarta: Institute of State Administration of the Republic of Indonesia, 2016), p. p. 10-11
- Jamil Bazarah, Ahmad Jubaidi, and Futum Hubaib, 'The Concept of Public Service in Indonesia (A Literacy Analysis of Public Service Delivery in Indonesia)', *DEDICATION* , VOLUME 22 (2021), p. 112
- Decree of the Minister of Administrative Reform No. 63/KEP/M. PAN /7/2003 Concerning General Guidelines for the Implementation of Public Services*
- Mertokusumo, Sudikno, *Discovery of Law An Introduction* , Revised Edition (Yogyakarta: Cahya Atma Pustaka, 2014)

Murti, Muhammad Reza, 'Legal Analysis of Village Decisions' (Hasanuddin University Makassar, 2018)

Ni Ketut Riani, 'Public Service Improvement Strategy', *Journal of Research Innovation* , Vol.1 No.1 (2021), p. 2446

Government Regulation Number 5 of 2021 concerning Implementation of Risk-Based Business Licensing

Purnami, Ida Ayu, 'Risk-Based Business Licensing Services Online at the Investment Service and One-Stop Services of West Nusa Tenggara Province', *Ministry of Home Affairs* <[http://eprints.ipdn.ac.id/9687/1/IDA_AYU](http://eprints.ipdn.ac.id/9687/1/IDA_AYU_PURNAMI_29.1256_ONLINE_RISK-BASED_BUSINESS_LICENSING_SERVICES_AT_THE_INVESTMENT_SERVICE_AND_ONE_STOP_INTEGRATED_SERVICE_IN_NUSA_TENGGARA_BARAT_PROVINCE.pdf)

PURNAMI_29.1256_ONLINE RISK-BASED BUSINESS LICENSING SERVICES AT THE INVESTMENT SERVICE AND ONE STOP INTEGRATED SERVICE IN NUSA TENGGARA BARAT PROVINCE.pdf>

The 1945 Constitution of the Republic of Indonesia

Law Number 25 of 2009 Concerning Public Services