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A COMPARISON OF LIABILITY BETWEEN PARTNERS IN A CIVIL PARTNERSHIP AND PARTNERS IN A FIRM

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Abstract

The research aims to examine the distinctions in liability between partners in civil partnerships and those in firms, while exploring the legal implications of the partnership establishment from the Civil Code perspective. The research was a normative juridical approach with legislative and used the qualitative analysis. The research found that the necessity for civil partnerships to adhere to the guidelines outlined in Regulation No. 17 of 2018. While aligning a civil partnership's name with Regulation No. 17 of 2018 does not alter partners' liability towards third parties to mimic that of firm partners, it highlights the unique management and liability characteristics distinguishing civil partnerships from firms. Consequently, there exist discrepancies in partner liability towards third parties: in civil partnerships, liability pertains solely to members involved in legal actions and is personal, whereas in firms, liability is shared among all partners.

Keywords: Civil Partnership; Firm Partners; Joint Name; Partner Liability.

Abstrak

Penelitian ini bertujuan untuk menguji perbedaan tanggung jawab antara mitra dalam kemitraan sipil dan mereka yang berada dalam firma, sambil mengeksplorasi implikasi hukum dari pembentukan kemitraan dari perspektif Kitab Undang-Undang Hukum Perdata. Penelitian ini merupakan pendekatan yuridis normatif dengan legislatif dan menggunakan analisis kualitatif. Penelitian ini menemukan bahwa perlunya kemitraan sipil untuk mematuhi pedoman yang diuraikan dalam Peraturan No. 17 Tahun 2018. Sementara menyelaraskan nama kemitraan sipil dengan Peraturan No. 17 Tahun 2018 tidak mengubah tanggung jawab mitra terhadap pihak ketiga untuk meniru mitra firma, hal itu menyoroti karakteristik manajemen dan tanggung jawab yang unik yang membedakan kemitraan sipil dari firma. Akibatnya, ada perbedaan dalam tanggung jawab mitra terhadap pihak ketiga: dalam kemitraan sipil, tanggung jawab hanya berkaitan dengan anggota yang terlibat dalam tindakan hukum dan bersifat pribadi, sedangkan dalam firma, tanggung jawab dibagi di antara semua mitra.

Kata Kunci: Persekutuan Perdata; Sekutu Firma; Nama Bersama; Tanggung Jawab Sekutu.

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INTRODUCTION

To achieve the goals of national development, it is essential to have various supportive infrastructures, including a legal framework that encourages, facilitates, and oversees different economic development activities. A key element of legal frameworks that support economic growth is the creation of regulations within the business sector, especially for individual enterprises lacking specific legislation, while businesses without legal entity status continue to follow the rules outlined in the Civil Code and Trade Code that govern civil partnerships.[1]

The basis for establishing a civil partnership originates from an association, which acts as the fundamental element for numerous business entities including civil partnerships, companies, limited partnerships, limited liability companies, and more. Key elements of an association include common interests, a united purpose, shared objectives, and cooperative endeavors among its members.[2] Civil partnerships as a business model are widely adopted, exhibiting various adaptations. The legal framework must set clear guidelines to determine the degree of flexibility permissible for a business structure to remain recognized as a civil partnership. Essentially, civil partnerships are formed through agreements among partners, in which they commit contributions to the partnership with the objective of profit-sharing, as outlined in Article 1618 of the Civil Code. Each partner is required to contribute to the civil partnership, which can include monetary assets, tangible goods, or specialized skills, as specified in Article 1619, paragraph (2) of the Civil Code.

Civil partnerships are created through agreements, thus invoking Article 1320 of the Civil Code, which governs the prerequisites for the validity of agreements. According to Article 1320, there are four essential elements for an agreement to be valid: mutual consent among the parties, the legal capacity to enter into an agreement, a specific subject matter, and a lawful purpose. The restrictions on forming civil partnerships are detailed in Article 1619 of the Civil Code, which mandates that civil partnership ventures must be legal and beneficial to the partners involved. This requirement for legality in civil partnership endeavors logically stems from Article 1320 of the Civil Code, which stipulates, among other criteria, the necessity for lawful intentions in agreement formation. Furthermore, once the agreement, as described in Article 1618 of the Civil Code, is ratified, the law governing civil partnerships is enacted.

From the explanations above, it is clear that according to the Civil Code regulations, the establishment of civil partnerships follows normative procedures and does not require specific formalities. Additionally, the Civil Code does not mandate the use of particular names for civil partnerships. The implementation of Regulation No. 17 of 2018 by the Ministry of Law and Human Rights, concerning the registration of Limited Partnerships, Firm Partnerships, and Civil Partnerships, has introduced legal advancements pertaining to the formation of civil partnerships in Indonesia.[3] This regulation undoubtedly impacts civil partnerships that were established prior to the ratification of Minister of Law and Human Rights Regulation No. 17 of 2018. There is a discrepancy between the

[1] *Ibid*
[2] Handri Raharjo, Hukum Perusahaan, Pustaka Yustisia, Yogyakarta, 2009, hlm 19
[3] Krisnadi Nasution dan Alvin Kurniawan, "Pendaftaran Commadnitaire Vennotschap (CV) Setelah Terbitnya Permenkumham No.17 Tahun 2018", Jurnal Hasil Penelitian LPPM, Untag, Surabaya, No. 01, Vol.04, Januari 2019, hlm. 51

provisions for civil partnerships as outlined in the Civil Code and those stipulated in Regulation No. 17 of 2018.

Article 4 of Minister of Law and Human Rights Regulation No. 17 of 2018 mandates that a name be submitted with the registration application for a civil partnership. This contrasts with the Civil Code, which does not require a name for the establishment of a civil partnership. If a civil partnership does not re-register its name, others may be able to use it, potentially causing losses to the civil partnership and the firm.[4] Article 4 of Regulation No. 17 of 2018 by the Minister of Law and Human Rights of Indonesia mandates that the registration application for a civil partnership must include the submission of the partnership's name. Article 5 specifies that applicants can submit the name through the Business Entity Administration System (SABU). Article 8 states that if the name does not comply with the requirements of Article 5, the Minister can electronically reject the civil partnership.

These legal provisions indicate that Regulation No. 17 of 2018 modifies the process for establishing civil partnerships as previously outlined in the Civil Code. Since the Civil Code is a higher-level legal regulation that already governs the formation of civil partnerships, it should not be overridden by Regulation No. 17 of 2018. Regulation No. 17 of 2018 should ideally address only those aspects not already regulated or improve areas insufficiently detailed by the Civil Code. This approach aligns with the principle of non-retroactivity in Indonesian law, where lower-level regulations are meant to implement higher legal provisions, such as the Civil Code, which continues to be effective under Article 2 of the transitional regulations of the 1945 Constitution.[5]

Requiring a name for registering a civil partnership impacts the duties of the partners. Essentially, a civil partnership operates as a profit-sharing agreement without a designated name, unlike firms, which operate under a collective name. Therefore, the requirement for civil partnerships to have a name under Article 4 of Permenkumham No. 17 of 2018 could potentially alter the partners' responsibilities to resemble those of a firm. Upon reviewing various sources, including previous research on related topics, the author identified disparities between this study and earlier works, confirming the originality of this research. The author cites previous studies regarding the establishment of civil partnerships in Indonesia following the ratification of Minister of Law and Human Rights Regulation No. 17 of 2018.

Selvi Dwi Anita completed her thesis, entitled "The Influence of Amendments to Minister of Law and Human Rights Regulation No. 17 of 2018 on the Registration of Limited Partnerships, Firm Partnerships, and Civil Partnerships," as a requirement for the Notarial Law Program at Pelita Harapan University in Tangerang in 2020.[6] Following the implementation of Minister of Law and Human Rights Regulation No. 17 of 2018 regarding the Registration of Limited Partnerships, Firm Partnerships, and Civil Partnerships, there has been a significant impact on CVs, firms, and civil partnerships. This impact includes the requirement to register establishments, amend articles of association, and dissolve CVs, firms, and civil partnerships through the Business Entity Administration System (SABU), operated by the Ministry of Law and Human Rights of Indonesia. The registration process entails recording the establishment deed, amendments to articles of association, and dissolution deed, tasks that are the

[4] *Ibid*
[5] *Ibid*
[6] Selvi, Dwi Anita, Dampak Perubahan Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 17 Tahun 2018 Tentang Pendaftaran Persekutuan Komanditer, Persekutuan Firma, dan Persekutuan Perdata, Tesis, Program Kenotariatan Fakultas Hukum Universitas Pelita Harapan, Tangerang, 2020

responsibility of a Notary authorized to create authentic deeds. These documents are then registered in SABU. The difference between previous research and the current study lies in the focus of discussion: prior research provided abstract discussions on the impact of Minister of Law and Human Rights Regulation No. 17 of 2018, while this study concentrates on the legal certainty in the establishment of civil partnerships post-legalization under the said regulation.

Indah Larasati completed her master's thesis, titled "Ensuring Legal Certainty in Commanditer Business Names Similar to Venotschaap Post-Regulation No. 17 of 2018 Regarding the Establishment of CV," as part of the Master of Laws Legal Studies Program at the Faculty of Law, University of North Sumatra, in Medan in 2020. The research outcomes of this study delve into various issues, including the lack of direct involvement of CV founders in management. CV founders are mandated to resubmit an application to validate a new CV name through a notary, utilizing the SABU and OSS electronic systems. Approval for the proposed CV name is then sought from the Ministry of Law and Human Rights through SABU and OSS. Legal obligations arise for founders of the old CV if duplicate names are submitted via the SABU and OSS electronic systems to the Ministry of Law and Human Rights, extending beyond 1 year from the enactment date of Minister of Law and Human Rights Regulation No. 17 of 2018.

The legal stance of Regulation No. 17 of 2018, which obliges established and operational CVs to comply with the requirement of submitting an application to validate CV name changes and re-register CV establishment deeds to the Ministry of Law and Human Rights through SABU and OSS electronic systems, may potentially conflict with the non-retroactive legal principle. This is because the Civil Code remains in effect today, as stipulated by Article 2 of the transitional regulations of the 1945 Constitution. While both prior research and this study discuss Regulation No. 17 of 2018, particularly regarding the application for registration of establishment, the distinction lies in the focus: earlier research examined the internal name submission process for registering CV establishments, whereas this study concentrates on the submission process for civil partnership establishments.

Given the background context, the author has raised the following inquiries: What disparities exist in liability among partners in civil partnerships versus those in firms registered under names mandated by Minister of Law and Human Rights Regulation No. 17 of 2018? What legal repercussions arise from establishing civil partnerships exclusively based on Article 1618 of the Civil Code, disregarding the regulations outlined in Minister of Law and Human Rights Regulation No. 17 of 2018?

This study aims to achieve two objectives: firstly, to delineate and analyze the distinctions in liability among partners in civil partnerships and those in firms registered under names specified by Minister of Law and Human Rights Regulation No. 17 of 2018. Secondly, it aims to examine the legal implications associated with establishing civil partnerships solely based on Article 1618 of the Civil Code, thereby sidestepping the provisions outlined in Minister of Law and Human Rights Regulation No. 17 of 2018.

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METHOD

The research methodology fundamentally entails a structured endeavor employing scientific approaches with the objective of acquiring new data to validate or refute the accuracy of a phenomenon.[7] As for methods the research used by the author is as follows:

1. Types of research

The author employs a normative research methodology, primarily drawing upon written sources such as books and legal regulations concerning Civil Partnerships, with a particular focus on the Civil Code and Minister of Law and Human Rights Regulation Number 17 of 2018. Additionally, insights from seminars and relevant research discussions are utilized in the study.[8]

2. Research approach

Legal research encompasses a variety of approaches, each offering different angles to gather information relevant to the topic being investigated, ultimately aiming to find solutions. Commonly utilized approaches in legal research include the statutory approach, case approach, historical approach, comparative approach, and conceptual approach.[9]

RESULT AND DISCUSSION

1. *The Legal Implications of Establishing Civil Partnerships Solely Based on Article 1618 of the Civil Code, Disregarding Minister of Law and Human Rights Regulation No. 17 of 2018*

Civil partnerships have their roots in an association, serving as the fundamental framework for various business entities like civil partnerships, firms, limited partnerships, limited liability companies, and others. This association is characterized by shared interests, collective intent, mutual goals, and cooperation among its members.[10] The civil partnership business model is extensively embraced in Indonesia, showcasing a multitude of forms and adaptations. The wide spectrum of variations highlights the necessity for clear legal parameters to delineate the permissible flexibility for a business structure to maintain its classification as a civil partnership.

Essentially, civil partnerships are established through mutual agreements among partners, wherein they commit to contributing resources with the objective of profit-sharing. This aligns with the provisions of Article 1618 of the Civil Code, which mandates that each partner must make a contribution to the civil partnership, whether in the form of monetary assets, goods, or expertise.[11] A civil partnership essentially functions as an agreement without constituting a separate legal entity. Due to its nature as an agreement, the primary role of a civil partnership involves pooling resources, typically capital, and fairly distributing profits among the parties involved.[12] Since a civil partnership is essentially an agreement, its formation primarily relies on the mutual agreement among the participating partners, without the obligatory need for civil partnership registration or additional formalities. However, partners may opt to solidify the establishment of a civil partnership through a

[7] *Ibid*
[8] Soerjono Soekanto, Penelitian Hukum Normatif, Rajawali press, Jakarta, 1998, hlm. 15.
[9] Peter Marzuki, Penelitian Hukum, Kencana, Jakarta, 2006. hlm. 133.
[10] Handri Raharjo, Hukum Perusahaan, Pustaka Yustisia, Yogyakarta, 2009, hlm 19
[11] Janus Sidabalok, Hukum Perusahaan Analisis Terhadap Pengaturan Peran Perusahaan Dalam Pembangunan Ekonomi Nasional di Indonesia, Nuansa Aulia, Bandung, 2012, hlm 103
[12] Mulhadi, Hukum Perusahaan Bentuk-Bentuk Badan Usaha di Indonesia, Ghalia Indonesia, Bogor, 2010, hlm 27

notarized deed, enhancing the agreement's completeness and providing legal safeguards in potential future disputes.

In essence, the agreement is grounded on consensus, signifying that the consent or agreement of the involved parties suffices. Once the agreement is finalized or at the specified moment within the agreement, the regulations concerning registration and announcements for third parties, as outlined in Chapter VIII of the Third Book of the Civil Code, do not apply. This contrasts with the provisions detailed in Articles 23 to 28 of the Trade Code for partnership Partnership firms, commonly known as firms, are one of the prevalent business entities in Indonesia. Like civil partnerships, firms are unincorporated business entities that require a minimum of two or more individuals to form an association aimed at conducting business under a unified name, with shared liability among the partners.[13]

Differing from a civil partnership, which doesn't require formalization through an authentic deed, the formation of a partnership firm necessitates the drafting of an authentic deed, typically a notarial deed. However, non-compliance with this requirement doesn't lead to sanctions. Consequently, establishing a partnership firm is possible even without an authentic or private deed. From the provided explanation, it's evident that there are differences between a civil partnership and a firm. A civil partnership involves an agreement among two or more individuals who commit to contributing something (inbreng) to a partnership with the aim of sharing the resulting profits. On the contrary, firms are characterized by specific features: Firstly, they are established to conduct business under a unified name. Secondly, formation occurs at the time of agreement, unless specified otherwise. Civil partnerships can be established verbally or in writing. Hence, while establishing a civil partnership doesn't require specific formalities, it is advisable to document it in writing. Thirdly, the establishment of a firm necessitates an authentic deed, although the absence of such a deed doesn't inherently harm third parties. Lastly, the deed of establishment for a firm must be registered with the Ministry of Law and Human Rights of the Republic of Indonesia. Following registration, the deed is published in the state news of the Republic of Indonesia.[14]

The explanation above emphasizes the contrasting requirements for establishing civil partnerships and firms. While civil partnerships, governed by the Civil Code, do not require specific formalities or name mandates, firms necessitate an authentic deed for conducting business under a collective name. The issuance of Permenkumham No. 17 of 2018 has prompted legal advancements in the realm of civil partnership establishment in Indonesia.[15] This regulation carries significant implications for pre-existing civil partnerships, highlighting discrepancies between the regulations outlined in the Civil Code and those introduced by Minister of Law and Human Rights Regulation No. 17 of 2018.

Article 4 of Minister of Law and Human Rights Regulation No. 17 of 2018 mandates that the registration process for establishing a civil partnership begins with submitting the partnership's name. Unlike the Civil Code, which doesn't require partnership names, this regulation stipulates the necessity of name submission. Failure to re-register the names of civil partnerships, as required by

[13] Dijan Widijowati, Hukum Dagang, Andi, Yogyakarta, 2012, hlm 19
[14] Mulhadi, Hukum Perusahaan Bentuk-Bentuk Badan Usaha di Indonesia, Ghalia Indonesia, Bogor, 2010, hlm 26
[15] Krisnadi Nasution dan Alvin Kurniawan, "Pendaftaran Commadnitaire Vennotschap (CV) Setelah Terbitnya Permenkumham No.17 Tahun 2018", Jurnal Hasil Penelitian LPPM, Untag, Surabaya, No. 01, Vol.04, Januari 2019, hlm. 51

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Permenkumham No. 17 of 2018, may result in others using the partnership's name, leading to potential losses for the partnership.

According to Article 4 of Minister of Law and Human Rights Regulation No. 17 of 2018, the application for registering a civil partnership must first include the partnership's name. Article 5 allows applicants to submit these names to the Minister through the Business Entity Administration System (SABU). Furthermore, Article 8 specifies that if the submitted name fails to meet the requirements outlined in Article 5, the Minister has the authority to electronically reject the civil partnership application.

Permenkumham No. 17 of 2018 introduces regulations that either address previously unregulated aspects or enhance inadequately regulated areas concerning the establishment of civil partnerships. Moreover, if the conditions for the partnership name, as outlined in Article 5(2) of the Minister of Law and Human Rights Regulation, are not met, the Minister has the authority to electronically reject the proposed name. This implies that if an applicant submits a name for a civil partnership that is already legally in use by another entity in SABU, the Minister may reject the name application.

Comparatively, establishing civil partnerships according to the Civil Code is relatively simpler, as there is no requirement for a specific partnership name. Once the agreement is made, as per Article 1618 of the Civil Code, the civil partnership is established. Furthermore, the provisions of Article 1624 of the Civil Code regarding civil partnerships have already been implemented or established.[16] This description indicates that forming a civil partnership, as outlined in the Civil Code, is relatively less complex than under the regulations of Minister of Law and Human Rights Regulation Number 17 of 2018, as there are no obligatory formalities to meet during the establishment process.

This description indicates that forming a civil partnership, as outlined in the Civil Code, is relatively less complex than under the regulations of Minister of Law and Human Rights Regulation Number 17 of 2018, as there are no obligatory formalities to meet during the establishment process. If an application for registering the establishment of a civil partnership cannot be submitted electronically due to the local notary's lack of internet access or a malfunctioning SABU system, as officially announced by the Minister, the application can be submitted non-electronically. According to Article 21 paragraph (2) of Permenkumham No. 17 of 2018, this non-electronic application must be written and include supporting documents or a letter from the local telecommunications office stating that the notary's domicile is not served by internet facilities.

The formal requirements outlined in Permenkumham No. 17 of 2018 must be met for the registration application of a civil partnership to be valid. If these conditions are not fulfilled, the establishment of the civil partnership will be null and void by law. Additionally, if there are discrepancies in the data and supporting documents provided for the registration, the establishment of the civil partnership will be revoked or deemed invalid.

An agreement that mandates specific formalities or procedures, such as the establishment of civil partnerships under the Ministry of Law and Human Rights Regulation No. 17 of 2018, is referred to as a formal agreement.[17] If the formalities required by Permenkumham No. 17 of 2018 are not met, the agreement is legally null and void. This highlights that Permenkumham No. 17 of 2018, as a regulation

[16] Mulhadi, Op Cit, hlm 52
[17] Subekti, Hukum Perjanjian, Intermasa, 1984, hlm 24

governing the establishment of civil partnerships, aims to streamline the registration and licensing processes for businesses.

This should facilitate, rather than obstruct, business development. The utilization of integrated electronic information technology in the registration and licensing processes impacts the formation of civil partnerships by integrating them into a unified electronic system. This system employs shared data and documents to generate a Business Registration Number (NIB), serving as the business actor's identity issued by the Online Single Submission (OSS) institution following registration.

Following the enactment of Permenkumham Number 17 of 2018, the establishment of civil partnerships based solely on Article 1618 of the Civil Code is no longer valid. Civil partnerships must now adhere to the stipulations outlined in Minister of Law and Human Rights Regulation No. 17 of 2018. This implies that the process of establishing a civil partnership must comply with the specific requirements set forth in this regulation.

2. *The Legal Shape of the Federation in Indonesia with the Country of Malaysia*

a. Overview of the Situation in Malaysia

Once more, Malaysia profits from a variety of businesses participating in commercial endeavors. The nation's prevalent Common Law system acknowledges several types of business entities, including: Sole Proprietorship, a firm owned by a single person where all authority and decision-making related to the firm's operations rest with the proprietor. Partnership, also referred to as a coalition, is a firm founded or owned by two or more individuals known as "partners". This kind of business entity is generally more appropriate for professional companies. Similar to Sole Proprietorship, only Malaysian nationals can register such partnerships. Limited Liability Partnership (LLP) merges characteristics of a partnership with those of a Private Limited Company. This type resembles traditional partnerships but also reaps advantages similar to a Private Limited Company. Private Limited Company/Sendirian Berhad (Sdn Bhd) is a distinct legal entity from its proprietors, allowing it to participate in contracts, transactions, tax payments, property sales, as well as legal actions autonomously. Sdn Bhd is comparable to a Limited Liability Company in Indonesia.

Public Limited Company/Berhad (Bhd), akin to Sdn Bhd, permits shares to be publicly traded during certain periods. Bhd requires more than 50 members, and there's no upper limit. These types of business entities are usually overseen by the Malaysian Securities Commission. Some business entities in Malaysia have parallels with those in Indonesia, especially in terms of Partnerships or Perusahaan Persekutuan. As per the Malaysia Partnership Act 1961, it declares, "Partnership is the relationship that exists between individuals conducting business collectively with an aim of profit." Scrutinizing this definition, it mirrors the notion of "Persekutuan" as defined in Article 1618 of the Indonesian Civil Code (KUHPerdata). In the same vein, LLP can be viewed as similar to a "Persekutuan Komanditer" or CV in Indonesia, regulated by the Partnership Act 2012 under Malaysian legislation.

b. The Legal Form of Partnership Companies Applicable in Malaysia

The judicial system in Malaysia functions under the common law system, resulting in significant differences in its legal environment compared to other countries. Malaysia relies on four primary sources of law: statutory law, traditional law, Islamic law, and customary law. Owing to these varying legal systems between Malaysia and Indonesia, economic practices and regulations overseeing corporations also differ, even though there are some parallels. The economic growth of Malaysia is supported by a plethora of corporations, each with its unique legal structure and form. Generally, there

is a broad spectrum of business types ranging from micro to small and medium-sized enterprises.[18] In Malaysia, "Persekutuan" or "Perkongsian", also known as Partnerships, are typically preferred by small to medium-sized business owners and professionals who are limited by their respective regulatory authorities from forming other kinds of enterprises. The Partnership Act 1961, which encompasses all facets of Partnerships, including firms, dictates the rules for Partnerships. The proliferation of Partnerships is fueled by the growing number of Malaysians participating in commerce. Nonetheless, as the economy and time evolve, it is perceived that the regulations related to Partnerships are no longer applicable and appropriate for certain enterprises, especially in the professional field. This has resulted in the advent of Limited Liability Partnerships (LLP). In April 2008, The Companies Commission of Malaysia (CCM) suggested a modification to the business structure in Malaysia. As per its consultative document, a flexible business model regarding the establishment, upkeep, and termination of its relationships, as well as being dynamic, is necessary for the nation to be more competitive in the age of globalization.[19]

In the structure of an LLP, new rules were rapidly enacted to facilitate all activities and regulations related to LLP. These rules are encapsulated in the Partnership Act 2012. Essentially, LLP borrows from the regulations that govern Partnerships as the basis for its operations, merging them with the notion of a corporation. As a result, partners within an LLP are limited, and the LLP exists as a separate legal entity from its partners. Therefore, the management within an LLP is not subject to the strict management procedures of a legal entity.

The Companies Commission of Malaysia (CCM) had the objective to launch LLP as a new business form in Malaysia back in 2009. LLP is a business entity with legal liability that is separate from its member partners. It is established based on a pre-agreed written agreement among the partners and then registered with the Ministry of Trade. All partners within an LLP are referred to as agents, indicating that each partner is an active participant authorized to act on behalf of the partnership (LLC) in conducting its business affairs.

However, in administrative matters, one partner must be appointed as the compliance officer to manage all administrative issues of the LLC. With the introduction of LLP, the Malaysian government expects an enhancement in its economic structure. This transition from traditional Partnerships to the modern LLP model, combining features of both Partnership and company structures, is expected to stimulate economic growth. The innovative LLP framework is recognized as a distinct legal entity separate from traditional Partnerships. Moreover, LLP ventures are not limited to Malaysia; they are also present in countries such as the UK, the US, Singapore, and others.

[18] Zuhairah Ariff Abd Ghadas, Engku Rabiah Adawiah Engku Ali, "THE DEVELOPMENT OF PARTNERSHIP BASED STRUCTURE IN COMPARISON TO THE CONCEPT OF MUSHARAKAH (SHARIKAH) WITH SPECIAL REFERENCE TO MALAYSIA", Journal of Islam in Asia 8, no. 2 (2012): 293-315, 294-295, DOI: 10.31436/jia.v8i0.248.

[19] Chan Wai Meng, et. Al., eds., "LIMITED LIABILITY PARTNERSHIP: IS MALAYSIA READY?", Proceedings of the 3rd International Borneo Business Conference 2008, 275.

CONCLUSION

The legal outcome of forming a civil partnership solely based on Article 1618 of the Civil Code while ignoring the stipulations of Permenkumham No 17 of 2018 is deemed null and void, making the formation of such a civil partnership unprocessable. With the implementation of Permenkumham No 17 of 2018, the creation of a civil partnership solely based on Article 1618 of the Civil Code is no longer valid and must adhere to the stipulations outlined in Permenkumham No 17 of 2018. Due to the invalidity of forming a civil partnership solely based on Article 1618 of the Civil Code, the formation of a civil partnership must comply with the requirements set forth in Permenkumham No 17 of 2018.

From the above explanation, the legal outcome of forming a civil partnership solely based on Article 1618 of the Civil Code and ignoring the stipulations of Permenkumham No 17 of 2018 is deemed null and void, making the formation of such a civil partnership unprocessable. Malaysia, being a common law jurisdiction, categorizes its business entities into five types, one of which is Partnership or Persekutuan or Perkongsian, and Limited Liability Partnership (LLP).

Partnership traditionally governs profit-seeking ventures, while LLP, although distinct, still draws upon Partnership rules as its foundation, merging them with corporate principles. There are differences between the forms and regulations governing partnership companies in Indonesia and Malaysia. Each country has its own specific laws: Partnership is governed by the Partnership Act 1961 in Malaysia, whereas LLP is regulated by the Limited Liability Partnership Act 2012. LLP focuses more on the entity itself, blending partnership characteristics with corporate features. Malaysian legislation provides detailed guidelines on corporate matters, including partnerships. In Indonesia, partnership companies encompass general partnerships, firms, and CVs, regulated under the Civil Code and Commercial Code. Conversely, Malaysia's partnership companies consist of partnerships governed by the Partnership Act 1961 and the newer Limited Liability Partnership, a hybrid of partnership and company structures, regulated under the Limited Liability Partnership Act 2012.

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