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Providing Legal Certainty to the Board of Directors Through the Implementation of Integrated Governance, Risk and Compliance (GRC) So That There Are Limits of Liability for Problems and Losses Occurring in BUMN

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Abstract: *This study discusses the implementation of integrated Governance, Risk, and Compliance (GRC) as a legal protection mechanism for BUMN Directors in dealing with problems and losses that occur. GRC combines three main elements corporate governance, risk management, and legal compliance that work synergistically to increase transparency, and accountability, and reduce uncertainty in decision making. Effective GRC implementation provides legal certainty for Directors, by proving that they have acted in good faith and accordance with applicable regulations. This study also identifies challenges in implementing GRC in BUMN, as well as the importance of the role of technology and changes in organizational culture in supporting the implementation of an effective GRC system.*
Keywords: *Governance, Risk and Compliance (GRC), Directors, BUMN, Legal Certainty.*

INTRODUCTION

One corporate body that plays a crucial and strategic role in running the business, especially in the case of State-Owned Enterprises (BUMN), is the Board of Directors. Law Number 40 of 2007 regulating Limited Liability Companies (UU PT) in Indonesia has specifically regulated the function and duties of the Board of Directors. It is stressed that "The Board of Directors carries out the administration of the Company for the interests of the Company and by the intent and purpose of the Company" in accordance with Article 92 paragraph (1) of the PT Law. Additionally, as per Article 97, paragraph (1) of the PT Law, "Each member of the Board of Directors is required to perform their obligations with full responsibility and in good faith for the Company's interests and business." (Muhammad, 2010) This provision shows that the Board of Directors not only carries out administrative functions but is also fully responsible for the running of business activities and the sustainability of the corporation. In BUMN which is known to manage separated state assets, this role becomes increasingly strategic because it concerns the public interest and state finances. (Atmadja, 2017)

Additionally, Law Number 19 of 2003 respecting State-Owned Enterprises (BUMN Law) reiterates the Board of Directors' function in the framework of BUMN. "The Board of Directors is an organ of the Company that has the authority and is fully responsible for managing the Company for the interests and objectives of the Company and represents the Company, both inside and outside the court by the provisions of the articles of association,"

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according to Article 1 Number 4 of the BUMN Law. The BUMN Law's Article 15 Paragraph 1 states that "The GMS appoints and dismisses the Board of Directors." (Harahap, 2016) This clause upholds the Board of Directors' professional independence in running the business while keeping it under corporate management. Furthermore, "The Board of Directors is responsible for managing the Company and in carrying out its obligations must be in good faith and with full responsibility," according to Article 15, paragraph (2). Consequently, the BUMN Board of Directors serves as both a manager and the primary individual in charge of determining whether the state-owned company succeeds or fails (Adriano, 2016).

However, in practice, the position of the BUMN Board of Directors is in a complex and stressful condition, both from political, economic, and regulatory aspects. The Board of Directors must be able to carry out their role in managing BUMN professionally, efficiently, and accountably, while still paying attention to the tenets of sound business management. Since BUMN oversees assets owned by the split state, the Board of Directors frequently faces a dilemma between business interests and state interests. (Suted, 2011) In many cases, the Board of Directors is also at risk of being held legally accountable for losses experienced by BUMN, regardless of whether the actions have been carried out professionally and based on rational business considerations (Clara Yunita Ina Ola, 2017-2018).

In carrying out the duties of managing the company, the BUMN Board of Directors is in a position full of risk, especially related to the possibility of being held accountable for problems or losses arising in the company. Legally, this is regulated "Every member of the Board of Directors is completely personally accountable for the losses of the Company if the individual concerned is guilty or careless in carrying out his obligations," according to Article 97, paragraph (3) of Law No. 40 of 2007 respecting Limited Liability Companies (UU PT)." (Raharjo, 2007) In the context of BUMN, this means that every policy or business decision taken by the Board of Directors can be the basis for imposing responsibility if it later causes losses, regardless of whether the decision was based on good faith and rational considerations. As a result, it is not uncommon for the Board of Directors to be the party dragged into the legal realm, either in civil lawsuits or criminal proceedings, when a BUMN project or policy results in financial losses or operational failure (Affandhi, 2016).

This condition is exacerbated by the fact that there are not always clear parameters or benchmarks to assess the extent to which the Board of Directors can be held accountable. In practice, the line between failed business decisions and unlawful acts is often blurred, especially when the evidence process does not pay attention to the principles of governance that have been implemented by the Board of Directors (Sinapoy, 2012). This opens up a gap for the use of legal instruments to pressure the Board of Directors based on losses alone, without considering whether the Board of Directors has carried out its obligations in good faith and with caution. It is where the inequality in legal protection for the Board of Directors arises due to the absence of structured and documented evidence of the decision-making process that has followed the principles of risk management and legal compliance. (Juliani, 2016) In addition, in a BUMN environment that is inseparable from political dynamics and state interests, the Board of Directors accountability often overlaps with non-business expectations, making the position of the Board of Directors very vulnerable. It is typical for law enforcement officers such as the Prosecutor's Office or the Corruption Eradication Committee to investigate the Board of Directors simply because a decision does not produce the expected benefits or even causes losses. (Pramono, 2007) In fact, in the principles of modern business management, not all risks can be avoided, and losses are not always identical to mistakes. The absence of a structured risk management and compliance system increases the chances of the Board of

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Directors becoming the object of criminalization, which ultimately has a deterrent effect and inhibits strategic decision-making in the management of BUMN. (Tjoanda, 2010)

A legal theory known as the company Judgment Rule (BJR) principle seeks to shield the Board of Directors from culpability for company choices that ultimately result in losses, as long as the decisions are taken fairly, rationally, and based on proper considerations. This principle recognizes that the business world has an inherent level of risk that cannot be avoided, and therefore, the Board of Directors should not be held personally responsible if the losses incurred are not caused by negligence or unlawful acts, but rather due to the dynamics and uncertainty in business activities. (Sukmana, 2016) According to the Limited Liability Company Law's Explanation of Article 97, paragraph (5), "members of the Board of Directors cannot be held responsible for losses if it can be proven that the loss is not due to their fault or negligence, have carried out management in good faith and with caution for the interests and by the intent and purpose of the company." This principle is reflected in Indonesian law. As a result, BJR serves as a sort of "legal shield" for the Board of Directors, allowing them to continue making proactive business choices free from the burden of excessive legal risk. (Adilla, 2015)

However, the main challenge in implementing the BJR principle lies in the aspect of proof. Often in law enforcement practices in Indonesia, the assessment of the Board of Directors' errors is more focused on the consequences or results of a decision, namely losses, without looking at the process and considerations behind the decision. The essence of BJR is to assess the process, not just the results. The Board of Directors must be able to prove that the decisions taken have gone through a risk analysis process, legal consultation if necessary, rational economic considerations, and are not based on a conflict of interest. In many cases, weak documentation, lack of accurate internal reporting systems, and the absence of a well-documented decision-making structure are obstacles in proving that the Board of Directors has acted by the BJR principles. (Lestari, 2015)

To ensure that every action and decision taken by the Board of Directors is within the legal corridor and healthy management, a structured and measurable management mechanism is needed. This includes the existence of a well-documented decision-making system and procedure, so that every managerial step can be tracked, evaluated, and accounted for. Without a clear system, the decision-making process is prone to deviations, either due to negligence, conflict of interest, or external pressure that is not in the interests of the company. This mechanism must include standard operating procedures (SOP), internal policy guidelines, and reporting and supervision procedures that can be accessed by the controlling authority. In addition, the decision-making system also needs to be aligned with external regulations, such as laws and regulations, OJK regulations, and provisions of the Ministry of SOEs, so that there is no inconsistency between the company's business practices and applicable legal norms. Furthermore, structured management must always refer to the Good Corporate Governance (GCG) tenets of independence, responsibility, accountability, transparency, and equity. These principles serve as the foundation for every corporate action so that decision-making by the Board of Directors is not only legal but also ethical and has integrity. Directors who act following GCG will be more legally protected because their actions can be proven to follow the established standards of professionalism and accountability. Therefore, BUMN as an entity that manages public interests needs to place good governance as an inseparable part of its management system. Without a standard policy structure and work system, the Board of Directors will have difficulty proving that their actions were carried out with full caution and responsibility, especially when faced with the risk of losses that lead to lawsuits.

In facing the complexity of BUMN management and the high risk of legal liability faced by the Board of Directors, the implementation of Governance, Risk, and Compliance (GRC) in an integrated manner becomes a strategic need. GRC is a systemic approach that unites the three main pillars of corporate management, namely corporate governance, risk management, and regulatory compliance, which aims to ensure that the organization runs effectively, ethically, and by the law. By implementing GRC in an integrated manner, every decision and action of the Board of Directors can be controlled and evaluated through a consistent and documented framework. This allows the Board of Directors to have objective evidence that they have implemented the principle of prudence, considered risks comprehensively, and have no conflict of interest. In the context of BUMN, where business decisions have the potential to affect state interests, GRC integration will improve the quality of decision-making and reduce the gap for abuse of authority.

Moreover, GRC not only functions as an internal management tool but also as a valid instrument of proof if a legal problem occurs. With risk documentation, compliance reports, and policy notes that are applied consistently, the Board of Directors can show that their actions are under applicable standards and are carried out professionally. This is very crucial in proving the application Following the idea of the Business Judgment Rule, which states that the Board of Directors can stay out of legal action if they can demonstrate the decisions they make have gone through the right managerial process. On the other hand, the implementation of GRC also contributes to strengthening an organizational culture that is oriented towards integrity, accountability, and sustainability. Therefore, comprehensive GRC not only provides added value to the corporation but also creates a fair and proportional legal protection space for the Board of Directors as the main managers of the company.

The implementation of effective risk management is the main key to creating legal certainty for the Board of Directors of BUMN. Through a systematic risk mitigation process, the Board of Directors can identify, analyze, and control various potential losses that can arise from the company's strategic decisions or policies. These mitigation steps are concrete evidence that the Board of Directors has implemented the prudential principle in all its actions. With the availability of risk assessment documents, risk registers, and records of corrective and preventive actions that are well documented The Board of Directors can demonstrate that the decisions made were reasonable and quantifiable. Since there is no element of error or neglect in their conduct, the principle of personal accountability of the Board of Directors as defined in Article 97 paragraph (3) of the PT Law cannot be promptly applied if all of these procedures are completed correctly.

In addition to providing legal protection, risk mitigation implemented within the framework of Governance, Risk, and Compliance (GRC) also creates a healthy and transparent corporate environment. The clarity of the accountability mechanism through GRC ensures that every action of the Board of Directors can be accounted for fairly and proportionally, not based on the final result alone, but based on the process and governance carried out. It is significant in dealing with the potential for criminalization of business policies, which often befalls BUMN Directors in various cases. With an integrated risk mitigation system, Directors can not only avoid baseless legal risks but can also be bolder and more confident in making strategic business decisions for the benefit of the company and the country. Therefore, good risk mitigation is not only a managerial element but is also the main foundation for legal protection and the creation of a professional and integrated BUMN management climate.

RESEARCH METHODS

This study employs a legal research technique, which is a normative legal method carried out by examining written legal materials as a basis for analyzing the legal problems being studied. This method focuses on legal norms contained in laws and regulations, legal doctrines, and relevant court decisions. This study combines two main approaches, specifically the analytical approach and the statute approach. Examining several relevant regulations, such as Law Number 40 of 2007 about Limited Liability Companies and Law Number 19 of 2003 regulating BUMN, is how the statutory approach is implemented, and other implementing regulations. Meanwhile, the analytical approach is used to critically examine the application of the Business Judgment Rule principle and the integration of the Governance, Risk, and Compliance (GRC) concept in the context of the legal accountability of BUMN Directors.

Among the secondary data sources are fundamental legal documents like laws and regulations, secondary legal materials like legal experts' literature or doctrines, and tertiary legal materials like legal dictionaries and encyclopedias. Library research is used to gather data by consulting books, journals, scientific papers, and other legal documents that are pertinent to the subject of the study. Additionally, descriptive-analytical approaches are used to qualitatively analyze data, which entails elucidating and evaluating relevant legal standards and then connecting them to the Board of Directors' accountability practices in operating BUMN. Therefore, this study attempts to give a thorough grasp of the Board of Directors' legal position in relation to corporate governance and risk management, as well as to gather normative arguments in favor of enhancing legal protection through the application of integrated GRC.

RESULTS AND DISCUSSION

Legal Liability of Directors in BUMN Management

As stated in Article 1 Number 5 of Law Number 40 of 2007 concerning Limited Liability Companies (UU PT), "The Board of Directors is an organ of the company that is authorized and fully responsible for managing the company for the interests and objectives of the company and represents the company, both inside and outside the court by the provisions of the articles of association." This article highlights the Board of Directors as one of the primary organs in the structure of a Limited Liability Company. This phrase makes it evident that the Board of Directors is essential to the administration and execution of the business's activities. Because it has a direct bearing on accomplishing the organization's goals, preserving corporate viability, and guaranteeing adherence to relevant laws and regulations, this management role is strategic. In this situation, the Board of Directors is answerable to various stakeholders, including the state in the case of a BUMN company, in addition to shareholders.

In contrast to the Board of Directors, the Board of Commissioners serves as a supervisory body whose duties include advising the Board of Directors and monitoring its policies. the General Meeting of Shareholders (GMS) in the meantime functions as the highest decision-making forum in the company that is authorized in certain matters as regulated in the PT Law and the articles of association. This difference in roles emphasizes the existence of a check and balance system in the company structure, where the Board of Directors focuses on the daily management of the company, the Commissioners carry out control and evaluation, and the GMS determines the main strategic direction. Thus, the Board of Directors must not only act independently but also work in structural harmony with other organs, while maintaining professional room for maneuver to make business decisions.

The PT Law's Article 92, paragraph (1), further highlights the responsibilities and powers of the Board of Directors by declaring that "The Board of Directors carries out the management of the company for the benefit of the company and by the intent and purpose of the company." In the meanwhile, each member of the Board of Directors must perform their obligations in good faith and with complete responsibility for the company's interests and operations, according to Article 97, paragraphs (1) and (2). Additionally, the Board of Directors may be held personally liable if their errors or carelessness result in losses for the company (Article 97, paragraph 3). Therefore, the law has clearly stated that the Board of Directors is legally responsible for all decisions and actions made, regardless of whether they result in profits or losses, in addition to having the authority and rights to run the business.

According to Law Number 19 of 2003 respecting State-Owned Enterprises (BUMN), the Board of Directors' position and function have unique characteristics in the context of BUMN. The Board of Directors is solely in charge of managing BUMN for its interests, in accordance with BUMN's aim and purpose, and representing BUMN in court and out of it, according to Article 15 paragraph (1) of the BUMN Law. But because BUMN oversees assets that are owned by several states, the Board of Directors also acts within a broader public accountability framework compared to ordinary limited companies. They must consider aspects of public service, state policy, and political control that often influence the direction of company policy. Therefore, although the legal basis is the same as other companies, the position of the Board of Directors of BUMN becomes more complex because it combines corporate principles with social and state responsibility.

The Board of Directors must respect the values of loyalty and caution while performing its duties, acting in good faith and with full accountability. These concepts, which include the responsibility of care and the obligation of loyalty, are referred to as fiduciary duties in corporation law. According to Article 97, paragraph (2) of the PT Law, "Each member of the Board of Directors is entirely personally accountable for the losses of the Company if the individual concerned is guilty or careless in carrying out his obligations." This principle is highlighted in the context of Indonesian law. This implies that if there is proof of error or neglect, the Board of Directors' accountability is not only collective but also individual.

The obligation of the Board of Directors to act in good faith is closely related to honesty in making decisions and not abusing authority for personal gain or for certain parties. This principle is important to maintain the trust of shareholders and the public in the integrity of company management, especially in BUMN which is in direct contact with state funds and assets. The Board of Directors must ensure that every policy taken does not violate the law, ethical norms, or corporate interests. In addition, the Board of Directors must also avoid conflicts of interest and ensure that all decisions are taken for the benefit of the company, not based on political pressure or the interests of certain groups.

The principle of duty of care requires the Board of Directors to have professional competence in every business decision taken. The Board of Directors' actions must be based on adequate information, proper risk analysis, and evaluation of various decision alternatives. It reflects the professional responsibility inherent in the position of the Board of Directors, where any negligence or reckless decision can lead to financial loss or even a lawsuit. Therefore, this principle of caution is a basic guideline in preventing actions that may harm the company, while protecting the Board of Directors from baseless accusations, as long as it can be proven that the decision was taken rationally and professionally.

Furthermore, the principles of Good Corporate Governance (GCG), which include transparency, accountability, responsibility, independence, and fairness, must be taken into account when the Board of Directors applies the principle of good faith and responsibility in the context of BUMN. The Directors' Board is required to be responsible not only to shareholders but also to the public as the indirect owner of state assets managed by BUMN. Therefore, the Board of Directors must be able to balance business objectives and public interests in every strategic decision. These principles ultimately become the basis for justification that if the Board of Directors has acted consistent with the principles of good faith and prudence, then they should not be held accountable for business risks that arise reasonably and cannot be avoided.

There are three primary categories of legal culpability for the Board of Directors' administration of BUMN: civil, criminal, and administrative liability. When the Board of Directors is thought to have broken a contract or performed an illegal act that results in damages for the company, civil responsibility results. "Members of the Board of Directors cannot be held liable for losses to the Company if they can prove that the loss was not due to their fault or carelessness," according to Article 97 paragraph (3) of the PT Law, which regulates this. As long as they can demonstrate that the acts taken adhered to the concept of prudence and were carried out in the best interests of the company, the Board of Directors will still have the option to defend themselves in the event of a loss. However, if the loss results from a negligent choice or misuse of power, the Board of Directors' personal accountability is unavoidable.

In addition to civil liability, the Board of Directors is also at risk of criminal liability, especially if the actions taken contain elements of corruption, embezzlement, or abuse of office. In the context of BUMN, because the management of company assets involves separated state assets, many decisions of the Board of Directors are closely monitored by law enforcement officers. Actions by the Board of Directors Law Number 31 of 1999 in conjunction with Law Number 20 of 2001 about the Eradication of Criminal Acts of Corruption allows for the prosecution of those that harm state finances, particularly if elements of abuse of authority are discovered, as stipulated in Article 3 of the Corruption Law. This is a serious challenge for the Board of Directors because the difference between reasonable business losses and losses caused by criminal errors is often debated at the investigation level. Meanwhile, administrative liability can arise in the form of sanctions from the Ministry of BUMN as the state shareholder or other authorities such as the Financial Services Authority (OJK). These sanctions can be in the form of written warnings, temporary suspension, or permanent suspension from office. In practice, although they do not have a direct impact on criminal or civil law, administrative sanctions can create a heavy moral and reputational burden for the Board of Directors. Often, administrative action is taken as the initial step before further investigation in the criminal or civil realm, especially if there is an alleged discrepancy in the implementation of the Board of Directors' duties.

The primary issue is that there are no explicit limits or guidelines pertaining to the extent of the Board of Directors' authority. Not every company risk can be prevented, and not every loss can be attributed to errors made by the board of directors. But in reality, the BUMN Board of Directors is often the first party to be held accountable, even before an objective assessment of the cause of the loss is carried out. This creates legal uncertainty, especially in the context of business decision-making which should be flexible and responsive to market dynamics. Therefore, there needs to be a mechanism that is able to fairly assess whether the Board of Directors' actions are indeed legal errors or part of a reasonable business risk - this is what then becomes the basis for the importance of the Business Judgment Rule principle and the implementation of the Governance, Risk, and Compliance (GRC) system in a structured manner.

Principle of Business Judgment Rule as Legal Protection for Directors

A corporation law doctrine known as the Business Judgment Rule (BJR) principle originated in the common law legal system, particularly in the United States. As long as the judgments are made in good faith, this approach shields directors and management from legal action for business decisions they make, in their capacity as managers, without conflict of interest, and based on rational considerations and adequate information. The essence of BJR is the recognition that business activities contain risks and that not every business loss can be used as a basis for demanding legal responsibility against directors, as long as the decision-making process is carried out fairly and professionally.

The BJR doctrine is based on respect for the business discretion of directors or management. In the American legal system, this principle emerged from various corporate court decisions, such as in the case of Smith v. Van Gorkom (1985), where the Delaware Court clarified the standard of care and the process of business decision-making by directors. In the BJR principle, the court will not interfere with or evaluate the substance of a business decision as long as the decision-making procedure is carried out correctly. Therefore, as long as there is no evidence of intent, gross negligence, or conflict of interest, then a decision that causes a loss is not immediately considered a violation of the law.

Although Law Number 40 of 2007 concerning Limited Liability Companies (UU PT) in Indonesia does not specifically state the Business Judgment Rule principle, it has been substantively adopted in Article 97 paragraph (5) of the UU PT, which states: "Members of the Board of Directors are not responsible for the Company's losses if they can prove:

1. the loss was not caused by their carelessness or mistake;
2. they managed the company in good faith and with consideration for its interests and goals;
3. they had no direct or indirect conflicts of interest with regard to the management decisions that led to losses; and
4. have taken steps to stop the loss from happening or from continuing.

From the formulation of the article, it is clear that the main elements of BJR such as good faith, no conflict of interest, and care have been implicitly recognized by national law.

Indonesian court jurisprudence has also begun to show a direction of recognition of the BJR principle, although it has not been widely used as the main basis for legal defense. In several cases of lawsuits against directors, the courts have begun to distinguish between losses due to business risks and losses due to negligence or intent. It shows that the direction of protection for directors so that they can work professionally, without fear of being criminalized for legitimate business decisions, is beginning to find a place in legal practice. However, to strengthen the implementation of BJR in the national context, explicit recognition is needed through internal BUMN regulations and corporate governance guidelines that clarify decision-making standards and the scope of legal protection for directors.

The Business Judgment Rule (BJR) principle provides legal protection for directors only if the decisions taken meet several important elements that are generally recognized in international corporate practice and legal doctrine in Indonesia. These elements function as objective parameters to assess whether a business decision is part of a reasonable business risk or is a violation of the legal obligations of the directors. Thus, the existence of these elements is crucial in assessing the feasibility of business decisions and the extent to which directors can be exempted from legal liability.

The first element is good faith. It means that the Board of Directors must make decisions to protect and advance the interests of the company, not for the interests of certain individuals or groups. It is contains honesty in assessing the condition of the company, openness in the decision-making process, and sincerity to minimize risk. If there is a hidden intention, manipulation, or abuse of authority, then this element is not fulfilled and the BJR protection is void.

The second element is the absence of a conflict of interest. The Board of Directors must ensure that there are no personal relationships, business affiliations, or political interests that can affect the independence of the decisions taken. If it is proven that the Board of Directors has direct or indirect involvement that can give rise to a conflict of interest, then each of his decisions can be considered not objective, and he can still be held accountable. In the context of BUMN, the risk of conflict of interest is often higher due to the complexity of the relationship between public officials, state shareholders, and political influence.

The third element is informed decision-making. It means that before making a decision, the Board of Directors must conduct sufficient analysis, consult if necessary, and ensure that the information used is relevant and accurate. Inaccuracy, hasty decision-making without a strong information basis, or ignoring professional input can be indicators of negligence.

The last element is the existence of a rational basis in decision-making. The court will not judge whether a business decision is “good or bad” in terms of results, but rather whether the decision makes business sense at the time it is made. Decisions that are taken logically by considering the conditions at that time, even if they later cause losses, remain under the protection of BJR as long as the decision-making process is not flawed. Therefore, meeting documentation, risk analysis, and strategic considerations need to be neatly arranged as evidence that the decision has a basis that can be professionally accounted for.

The Board of Directors of BUMN is legally entitled to protection under the Business Judgment Rule principle once these four requirements are met. Nonetheless, the legal protective status may be revoked and the Board of Directors may still face civil and criminal charges if only one requirement is not met. As a result, the Board of Directors must comprehend and consistently apply this idea in all company decision-making processes.

Although Law No. 40 of 2007 concerning Limited Liability Companies (PT Law) does not specifically regulate the Business Judgment Rule (BJR) in the context of Indonesian law, some of its fundamental ideas are contained in the articles that govern the duties of the Board of Directors. Certain provisions, as stated in Article 97 paragraph 5 of the PT Law, give the Board of Directors a legal defense if they can demonstrate that the decisions were made in good faith, free from conflicts of interest, and supported by enough and reasonable information. However, the BJR concept's acceptance is not fully covered by Indonesian laws and regulations; as a result, its application frequently depends on how judges interpret the law and internal corporate policy, particularly when it comes to the Good Corporate Governance (GCG) guideline.

The application of the Business Judgment Rule in Indonesian law, especially in State-Owned Enterprises (BUMN), faces several challenges. One of them is the ambiguity in the limits of authority held by the Board of Directors of BUMN, considering that BUMN has a close relationship with the state as the sole or majority shareholder. In this situation, the Board of Directors often faces tighter government and public scrutiny, which can affect their freedom in decision-making. This is exacerbated by the political influence that often occurs in the management of SOEs, where strategic decisions can be influenced by external factors, not solely by rational business considerations.

BJR, although intended to protect the Board of Directors from lawsuits for decisions taken in good faith and based on sufficient information, still faces major challenges in the Indonesian legal system. For example, BUMN Directors often have to face the complexity of maintaining their independence in decision-making when there is pressure from government institutions or political parties that have a large influence on company policy. It makes the BJR principle in SOEs require more attention, especially in developing internal mechanisms that can ensure that the Board of Directors' decisions are still taken on a legitimate, transparent basis, and avoid conflicts of interest.

In some cases, Indonesian courts have also begun to recognize the BJR principle in handling lawsuits against the Board of Directors. Although this principle is not expressly regulated in law, courts often consider whether the Board of Directors' decisions have been taken with caution, sufficient information, and without personal motives. In the context of BUMN, which operates under state supervision, the court also consider whether the policies taken are by public policy and do not harm the interests of the state. Therefore, the legal protection provided to BUMN Directors through BJR is very important so that the Directors can carry out their duties professionally and without fear of the possibility of excessive liability, as long as they act by the principles that have been determined.

Thus, although the Business Judgment Rule is not explicitly regulated in Indonesian legislation, the application of this principle remains relevant in the context of Indonesian law, especially in the management of BUMN. Directors need to be encouraged to adopt BJR principles in their internal policies to ensure that every decision taken has gone through a legitimate, rational process and does not violate existing legal obligations. This will provide legal certainty for BUMN Directors in facing complex and risky business challenges.

The Business Judgment Rule (BJR) principle functions as a very important legal protection instrument for the Board of Directors in carrying out their duties in managing a company, including in BUMN. This principle protects from lawsuits that may arise from decisions taken in their capacity as company managers, as long as the decisions are taken in good faith, without conflict of interest, based on adequate information (an informed decision), and with rational considerations (rational basis). With the BJR, the Board of Directors is given the freedom to make strategic decisions that sometimes contain risks, without fear of excessive legal consequences as long as the decision meets the specified requirements. In the context of BUMN, which often has external pressure from the government or other parties involved in ownership, the implementation of BJR is crucial to ensure that the Board of Directors can carry out their duties professionally and independently. This protection allows the Board of Directors to make risky decisions with a sense of security, knowing that if the decision is indeed based on careful analysis and correct procedures, they will not be held legally accountable unfairly. Therefore, the implementation of the BJR principle is part of an effort to strengthen Good Corporate Governance (GCG) in BUMN and provide clearer legal certainty for the Board of Directors in making strategic decisions.

Implementation of Integrated Governance, Risk and Compliance (GRC) as a Legal Protection Mechanism

Governance, Risk, and Compliance (GRC) is a framework that combines three important elements in interrelated corporate management, namely corporate governance, risk management, and legal compliance. In general, GRC aims to ensure that the organization can run efficiently, comply with applicable laws and regulations, and manage risks in a structured manner. In the context of BUMN, the implementation of GRC is very important because BUMN must operate by prioritizing the interests of the state, which means it must prioritize the principles of transparency, accountability, and responsible management towards the community and the state. The implementation of GRC in BUMN is not only aimed at fulfilling

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legal and regulatory obligations, but also at creating an environment that supports the achievement of the company's long-term goals, such as operational efficiency, achieving the country's economic goals, and avoiding potential losses or legal risks that could harm the company.

The integrated concept in GRC refers to how the three elements - governance, risk management, and compliance are interconnected and function synergistically in a comprehensive system. Corporate governance ensures that the company is managed with clear principles of transparency, accountability, and responsibility to stakeholders, including the state as a shareholder in BUMN. Risk management is tasked with identifying, evaluating, and managing risks that can affect the company's performance so that decisions taken by the Board of Directors are always based on careful consideration and reduce the possibility of losses. Legal compliance ensures that all policies and actions of the Board of Directors and all lines of the organization comply with applicable regulations and standards, both in terms of national and international law. These three elements, when implemented in an integrated manner, will create a system that not only reduces uncertainty, but also increases transparency, strengthens stakeholder trust, and ultimately ensures the company's long-term sustainability. In BUMN, the implementation of integrated GRC is very relevant to maintain the credibility of the company and strengthen the position of the Board of Directors in making decisions that not only benefit the company but also by the interests of the public and the state.

The implementation of Governance, Risk, and Compliance (GRC) in companies, especially in BUMN, plays a vital role in strengthening and improving the principles of Good Corporate Governance (GCG). GCG itself is a framework that ensures that companies are managed transparently, accountably, responsibly, and independently, taking into account the interests of all stakeholders, including the state as the majority shareholder in BUMN. In this context, the integrated implementation of GRC helps create a solid foundation for implementing good GCG. Through GRC, every decision taken by the BUMN Board of Directors can be accounted for, considering the principles of transparency in information management, accountability in carrying out tasks, and efficient supervision in every action taken by management. In other words, GRC functions as a tool to ensure that the Board of Directors and BUMN managers act in a corridor that is by the principles of GCG, which in turn increases public and stakeholder trust in BUMN. In addition, GRC also contributes to ensuring that the regulations and policies taken by BUMN not only meet applicable legal standards but also involve careful consideration of risks. This helps prevent abuse of authority or decisions that could potentially harm the public interest, as well as creating a more effective internal control system. With integrated risk management, SOEs can be better prepared to identify and manage potential threats or obstacles that could affect the company's operations and reputation. In addition, the legal compliance aspect in GRC ensures that all SOE activities are always within the correct legal framework, both in terms of tax regulations, contracts, and other policies related to business activities. Overall, the implementation of GRC in SOEs not only improves company performance, but also strengthens Good Corporate Governance, which is very important in creating an efficient, honorable, and sustainable organization, and can provide optimal benefits for the country and the wider community.

The implementation of Governance, Risk, and Compliance (GRC) in risk management in SOEs is very important to maintain the sustainability of the company and protect state assets. In the context of SOEs, risk management is not only to protect the interests of the company but also to ensure that the company can operate efficiently and not harm the interests of the public or the state. Risk management in GRC helps the Board of Directors in identifying, assessing, and managing risks that can affect the company's operations, be it strategic risk, operational risk, financial risk, or reputation risk. For example, in a state-owned enterprise engaged in the energy sector, risks related to changes in government regulations or fluctuations in energy prices can have a significant impact on the company's financial performance. With integrated GRC, the company can proactively mitigate risks by planning anticipatory steps to reduce the negative impacts of potential risks.

In addition, the implementation of GRC in risk management in state-owned enterprises also helps the Board of Directors to make more informed decisions. With the GRC framework, the Board of Directors can ensure that risks that may arise during the decision-making process have been analyzed and managed properly. It not only protects the company from potential financial losses but strengthens public and regulatory confidence that the state-owned enterprise operates with good governance and integrity. One of the main benefits of implementing GRC in risk management is its ability to reduce uncertainty in the decision-making process. With adequate data and systems to monitor and evaluate risks in real-time, the Board of Directors can act more quickly in dealing with emerging threats or opportunities, make more informed, accurate decisions, and reduce the potential for failure or loss. For example, in a crisis or global economic uncertainty, the implementation of GRC can help SOEs identify risks that may disrupt operations and immediately design strategies to mitigate the impact, both in finance, operations, and reputation.

The implementation of integrated Governance, Risk, and Compliance (GRC) in SOEs not only functions as a tool to manage risk and compliance but also as a form of legal protection for the Board of Directors. In this context, GRC becomes an important mechanism to ensure that decisions taken by the Board of Directors can be legally accounted for while protecting them from potential lawsuits arising from business decisions taken. In the management of BUMN, where the Board of Directors has a very large obligation to the state and the public, the implementation of GRC provides clear guidelines on how risks can be managed, decisions can be accounted for, and compliance with regulations can be maintained properly. One of the main benefits of GRC as a legal protection is that if the Board of Directors follows good GRC procedures — namely by mitigating risks, ensuring compliance with regulations, and implementing good governance (GCG) principles — then they can reduce the risk of unfair legal liability, both civil and criminal.

Furthermore, the implementation of the GRC system in BUMN can provide valid evidence that the Board of Directors has made decisions in good faith, based on sufficient information, and avoiding conflicts of interest. In this case, the Business Judgment Rule (BJR) plays a role in protecting the Board of Directors from responsibility for decisions made as long as they meet these criteria. With well-documented procedures through GRC, the Board of Directors can show that they have acted by the expected standards, which can then be used as evidence of legal protection if problems or losses occur in the future. In addition, the implementation of good GRC in BUMN also makes it easier to carry out internal supervision and audits, which provides an additional layer of protection against possible violations of the law or internal policies. With a transparent and documented system, the Board of Directors is better prepared to face external supervision from state institutions or other authorities, and strengthens their argument that all actions taken are by applicable legal policies, thus providing stronger legal certainty for the Board of Directors.

Although the implementation of integrated Governance, Risk and Compliance (GRC) in BUMN has many benefits, its implementation is not without challenges. One of the main challenges is the organizational culture that tends to be rigid and bureaucratic in many SOEs.

In many SOEs, decisions often have to go through multiple administrative layers and require approval from many parties. It can slow down the decision-making process and reduce flexibility in responding to market dynamics or regulatory changes. In addition, the lack of in-depth understanding of the GRC concept among SOE managers, especially at the operational level, is often an obstacle to the effective implementation of this system. Without sufficient understanding, risk management and regulatory compliance can be neglected or implemented partially, which ultimately reduces the overall effectiveness of GRC.

In addition, challenges in external supervision also need to be considered. The government as the majority shareholder often has significant influence on strategic decisions of SOEs. However, strict supervision from the government or other supervisory bodies can create tension between independent management and compliance with public policy. For example, there is a possibility that political interests or changing government policies can influence business decisions that should be based on objective analysis and good GCG principles. Therefore, effective GRC implementation requires a strong commitment from the government to support and not intervene in business decisions that have been based on transparent and accountable governance principles. In addition, GRC implementation also requires sufficient investment in human resources, as well as adequate technology systems and infrastructure to support effective data collection, risk monitoring, and compliance.

CONCLUSION

The implementation of integrated Governance, Risk and Compliance (GRC) in the management of SOEs is important to provide legal certainty for the Board of Directors and ensure transparent, accountable, and sustainable company management. GRC functions to mitigate existing risks, both operational, financial, and legal, and provide legal protection for the Board of Directors in decision-making that prioritizes the principles of prudence and good faith. With the proper implementation of GRC, the Board of Directors can avoid unfair lawsuits, as long as they can prove that the decisions taken are by company policies and applicable regulations. In addition, GRC also plays an important role in strengthening the Good Corporate Governance (GCG) tenets, which will eventually boost public confidence in SOEs and guarantee the long-term viability of the business's operations. However, the challenges in implementing GRC in SOEs are still quite large, especially related to the bureaucratic organizational culture, strict external supervision, and limited human resources and infrastructure. However, these challenges can be overcome through a systematic approach, including increasing understanding of GRC, changing organizational culture, and implementing technology that supports transparency and effectiveness of risk management. Therefore, the success of implementing integrated GRC in SOEs depends not only on existing policies and regulations, but also on the commitment of all parties involved in implementing the principles of good corporate governance.

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