

ABSTRACT

Company Law Number 40 of 2007 (UUPT 2007) adheres to the principles of capital association and covenant, so to establish a Limited Liability Company (PT) must be done by 2 (two) or more persons. Likewise after PT stands and has obtained the status as a legal entity, then the number of shareholders must still be at least 2 (two) persons. Therefore there is no possibility of One-Person Company (PT Perseorangan), which is a PT that can be established by only 1 (one) person only or all shares owned by 1 (one) person only. This provision has caused many problems in everyday business practice, which has led to various forms of legal smuggling (fraus legis) in the case of the establishment of PT and after PT obtain the status of legal entity. However, the fact that in Article 7 paragraph (5) of Company Law of 2007 is lawfully allowed the existence of One-Person Company (PT Perseorangan) for a maximum period of 6 (six) months. In Article 7 Paragraph (6) of Company Law of 2007 the possibility of the occurrence of One-Person Company (PT Perseorangan) for a long period of time may occur because the provisions of this article are not strict in terms of sanctions. Furthermore, Article 7 Paragraph (7) Sub-Paragraph a and b of Company Law of 2007 also found the existence of One-Person Company (PT Perseorangan) since its establishment but is valid for State-Owned Enterprises (SOEs) Persero which wholly shares owned by the State, Stock Exchange (BEI), Clearing Guarantee Institution (LKP), Depository and Settlement Institution (LPP), and other institutions as stipulated in the Capital Market Law, and for these companies the obligation to apply the principles of capital association and covenant is exempted.

Therefore, in this dissertation research, we want to find and analyze the ratio-legis and characteristics of the principles of capital association and covenant in PT, the ratio-legis permitted single shareholder in PT in Indonesia for 6 (six) months, ratio-legis of the possibility of SOEs (Persero) which wholly shares owned by the state, the company that manages the Stock Exchange (BEI), Clearing and Guarantee Institution (LKP), the Depository and Settlement Institution (LPP) becomes the solely shareholder in the PT with the exclusion of the application of the principles of capital association and covenant. Currently, One-Person Company (PT Perseorangan) has become a trend in the world, and its stance is no longer based on the principles of capital association and covenant. In its establishment has also shifted from the principle of endorsement to the principle of registration. Germany, was the first country in the world (1892) to formally introduced the One-Person Company in the form and name of Gesellschaft mit beschränkter Haftung (GmbH) and India one of the most recently introduced countries (2013) in the form of One-Person Company (OPC). Therefore, in this dissertation research is sought, found and analyzed on the characteristics and liability of One-Person Company (PT Perseorangan) by comparing it to GmbH and OPC.

Keywords: Legal Development, One-Person Company, Limited Liability Company.