

## EXISTENCE, SUPERVISION, AND RESPONSIBILITY OF INDIVIDUAL LIMITED LIABILITY COMPANY AS A LEGAL ENTITY

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### Article History

Received: 29 Desember 2024

Accepted: 12 January 2025

Published: 12 April 2025

### Abstract

Limited Liability Companies (PT) are business entities that are in demand because they provide separation of wealth between share owners and legal entities. Through Law Number 6 of 2023 concerning Stipulation of Government Regulations in Replacement of Law Number 2 of 2022 concerning Job Creation (UU Job Creation), the provisions in Law Number 40 of 2007 concerning PTs have undergone changes, including allowing the establishment of PTs by one founder (single shareholder) for business Micro, Small and Medium Enterprises (MSMEs). The normative juridical approach shows that the establishment of an Individual PT is feasible if it meets the requirements: it is declared a legal entity by law, has its own assets, and has government approval in accordance with Articles 153A and 153B of the Job Creation Law and Article 7 of Government Regulation Number 8 of 2021. The establishment process is carried out by filling out the establishment statement form in Indonesian and registering it with the Minister of Law and Human Rights to obtain a registration deed. However, supervision of Individual PT is still a challenge, because it does not have any other organs apart from the founder, so the potential for irregularities is greater. Therefore, new implementing regulations are needed to ensure legal certainty, guarantee supervision, and provide a clear responsibility mechanism for the actions of the founders and activities of PT Individuals. This is important so that PT Perorangan can function optimally as a legal entity that supports the development of MSMEs in Indonesia.

**Keywords:** Existence, Supervision, Limited Liability Company (PT)

### A. INTRODUCTION

Limited Liability Company (PT) is one form of business entity that is quite attractive among entrepreneurs or business people. It is right to say that the presence of PT as a means of carrying out economic activities has become a necessity that cannot be negotiated (Untung & SH, 2024). PT is a legal entity that is more in demand by business actors or businesses in running their businesses. From time to time the government has issued provisions governing PT, which is currently specifically regulated in Law Number 40 of 2007 concerning Limited Liability Companies (UUPT) (Aprita 2021). A Limited Liability Company is a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital that is entirely divided into shares and meets the requirements stipulated in the Limited Liability Company Law and its implementing regulations (Arief & Ramadani, 2021).

Before the birth of (UUPT) Number 40 of 2007, PT was regulated in Law Number 1 of 1995 as a replacement for the Commercial Law Code in Articles 36 to 56 which contain provisions on Limited Liability Companies. The term PT in Dutch law is known as Naamloze Vennootschap (NV), which means an unnamed partnership (Yusuf et al., 2024). This indicates

a partnership whose name does not have the elements of the names of its partners (Hamid, 2022). Limited Liability Company (PT) consists of two words, namely persero which means shares or shares, and the word limited is what explains how the responsibility of shareholders is only limited to the total nominal shares owned (Kasih, 2022).

Over time, Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation (hereinafter referred to as the Job Creation Law) was issued, one of the clusters of which changes the definition of Limited Liability Company and adds provisions as contained in the UUPT. The provisions of Article 109 number 1 point 1 of the Job Creation Law state:

*“Limited Liability Company, hereinafter referred to as the Company, is a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares or an individual legal entity which meets the criteria of micro and small businesses as regulated in laws and regulations concerning micro and small businesses.”*

The Job Creation Law creates a new understanding of PT. In general, Indonesian people who specifically have activities in the legal entity business sector have understood that a Company is a collection of capital created in the establishment of a legal entity with share ownership or that a Limited Liability Company is established by at least 2 (two) founders (Prasetyo, 2022). The presence of the Job Creation Law which creates a regulation regarding the establishment of a Limited Liability Company for Micro and Small Businesses by one founder (single shareholder), this is known as an Individual Limited Liability Company (Perseroan Perorangan) (Yani et al., 2024).

An Individual Limited Liability Company is a legal entity established based on a statement of establishment from an Indonesian citizen, whose basic capital comes from the separated assets of the founder, and meets the criteria for micro and small businesses as regulated in the laws and regulations concerning micro and small businesses (Pangesti, 2021).

The existence of a Sole Proprietorship is defined as a Legal Entity Individual that meets the criteria of Micro and Small Businesses. The legal status of a Sole Proprietorship as a legal entity is also unclear whether it meets the requirements and elements of the legal norms applicable in Indonesia (Isnaesni, 2021). Then, if the founder and shareholder of a Sole Proprietorship is only 1 (one) person, it is very possible that it will be difficult to determine the supervision and responsibility of the Company, because the responsibility is limited to the capital in the Company (Al-Syifa, 2023). Likewise, to prove whether the shareholder has bad intentions in using the Company for personal gain and misusing the Company's assets (Wardhana, 2021).

If a Limited Liability Company is established by at least two people, then there is a second party who supervises it. The function of the second party that does not exist in this Individual Limited Liability Company is to supervise the business carried out using the Individual Limited Liability Company business entity (Subagyo & Purnomo, 2022). This is clear because the founder himself is the sole shareholder, also serves as director, and also as supervisor. The ratification of the Job Creation Law raises big questions and becomes a polemic for the community as business actors in running their businesses with legal entities. Based on these things, the author wants to examine in more depth the various problems of the establishment and existence of an Individual Limited Liability Company as a Legal Entity, as well as the supervision and responsibilities of shareholders and the Individual Limited Liability Company itself.

## **B. LITERATURE REVIEW**

### **Definition and Characteristics of a Sole Proprietorship**

A Limited Liability Company (PT Perorangan) is a legal entity designed to provide convenience for individuals who want to run a business independently. This legal entity can be established without requiring partners or agreements with other parties, making it suitable for Micro and Small Enterprises (MSMEs). The basic capital of a PT Perorangan is divided into shares, which allows the owner to manage the business with a clearer legal structure (Sasongko et al., 2024).

The existence of a PT Perorangan provides significant benefits, especially for MSMEs who want to obtain legal protection while facilitating access to capital. With legal entity status, business actors can be more trusted by business partners and financial institutions. This convenience is expected to encourage local economic growth and provide opportunities for individuals to develop their businesses professionally.

### **Government Regulation No. 8 of 2021**

Regulations related to Individual Limited Liability Companies (PT) provide clear guidance regarding authorized capital, registration process, changes, and dissolution of the company. The authorized capital set is adjusted to the criteria of Micro, Small, and Medium Enterprises (MSMEs), making it more affordable for individual business actors. The registration process for Individual PTs is designed to be simple and fast through an integrated digital system, making it easier for business actors to obtain official legal entity status (Fauzi et al., 2023).

In addition, this regulation also covers procedures for changing the structure or information of PTs, such as increasing capital, changing names, or changing business addresses. This regulation ensures that every step taken by business actors is in accordance with applicable legal provisions. In terms of dissolution, the regulation provides transparent guidance so that business actors can fulfill their obligations properly, so that fair legal protection is created for all parties involved.

### **Benefits and Limitations**

The benefits of PT Perorangan include providing a practical solution for individuals who want to run a business with little capital. The relatively low establishment costs allow Micro, Small, and Medium Enterprises (MSMEs) to start a business without a large financial burden. In addition, PT Perorangan offers high operational freedom, where the owner has full control over every business policy without having to coordinate with other parties. The simple and fast transaction process is also an advantage, because it does not involve complex bureaucracy (Hastuti et al., 2023).

However, PT Perorangan also has several limitations that need to be considered. The risk of bankruptcy tends to be higher because all operational and financial responsibilities are centralized in one individual. In addition, limited funds are also a challenge, especially if the company requires large additional capital to grow. Non-specific capital base limitations often make it difficult for owners to attract investment or expand on a larger scale. Therefore, business actors need to carefully consider these benefits and risks before choosing PT Perorangan as a form of business entity.

## **C. RESEARCH METHODOLOGY**

The research used is normative juridical/normative law. The normative legal research method is also known as library legal research, which is a study that analyzes written law in books (law as it is written in the book), which is basic data which in research science is classified as secondary data. The approach method that will be used in this study is to use the statute approach, comparative approach, and conceptual approach, which are related to the

research. The legal issues examined in this study relate to the existence, supervision, and responsibility of Individual Limited Liability Companies as legal entities. The main source used in normative research is in the library as secondary data, which consists of: Primary legal materials, namely legal sources in the form of laws and regulations. Secondary legal materials, namely those sourced from books and literature that can explain and relate to the object being studied. Tertiary legal materials, namely in the form of dictionaries and encyclopedias (Rosidi et al., 2024).

#### **D. RESULT AND DISCUSSION**

##### **Establishment and Existence of a Limited Liability Company Obtaining Legal Entity Status According to the Job Creation Law**

The definition of a Limited Liability Company (PT) has changed since the issuance of the Job Creation Law. A company is defined as a legal entity that is a capital association established based on an agreement to carry out business activities with authorized capital that is entirely divided into shares or an individual legal entity that meets the criteria for micro and small businesses as regulated in laws and regulations concerning micro and small businesses. The regulation of Individual PTs in the Limited Liability Company Law, discussions on individual micro and small businesses must of course refer to the MSME Law. The Job Creation Law also regulates cooperatives which are included in the discussion of micro and small businesses.

Government Regulations related to Individual PTs as implementing regulations of the Job Creation Law are PP Number 7 of 2021 concerning Facilitation, Protection and Empowerment of Cooperatives and Micro, Small and Medium Enterprises (hereinafter referred to as PP on Facilitation, Protection and Empowerment of Cooperatives and MSMEs) and PP Number 8 of 2021 concerning Authorized Capital and Registration of MSMEs. Referring to Article 109 number 2 paragraph (7) letter e and paragraph (8) of the Job Creation Law, an Individual PT is a Limited Liability Company that may be established by only 1 (one) person who meets the criteria as a micro and small business according to the MSME Law. Thus, the scope of an Individual PT is only intended for the scope of micro and small businesses (MSMEs) which have the following characteristics:

- a. PT that meets the criteria as a micro business, namely a productive business owned by an individual or individual business entity that meets the criteria for a micro business according to the UMKM Law. According to Article 6 paragraph (1) of the UMKM Law, the criteria for a micro business are as follows:

- 1) have a maximum net worth of Rp50,000,000.00 (fifty million rupiah) excluding land and buildings for business premises; or
- 2) annual sales results of a maximum of Rp300,000,000 (three hundred million rupiah)

This characteristic was changed by PP Number 7 of 2021, namely Article 35 states that the criteria for Micro Businesses have a business capital of up to a maximum of IDR 1,000,000,000 (one billion rupiah) excluding land and buildings for business premises.

- b. PT that meets the criteria as a small business, namely a productive economic business that stands alone and is carried out by an individual or business entity that is not a subsidiary or prospective company owned or is a direct or indirect part of a medium or large business that it owns. meets the criteria for a small business as stated in the UMKM Law, According to Article 6 paragraph (2) of the UMKM Law, the criteria for a small business are as follows:

- 1) Have net assets of more than Rp50,000,000 (fifty million rupiah) up to a maximum of Rp500,000,000 (five hundred million rupiah) excluding land and buildings for business premises; or

- 2) Have sales proceeds of more than Rp300,000,000 (three hundred million rupiah) up to a maximum of Rp2,500,000,000 (two billion five hundred million rupiah).

This criterion is amended by Article 35 of the PP on Ease, Protection, and Empowerment of Cooperatives and MSMEs, that the criteria for small businesses that have business capital of more than IDR 1,000,000,000 (one billion rupiah) up to a maximum of IDR 5,000,000,000 (five billion rupiah) does not include land and buildings where they do business. In addition to the business capital criteria, the criteria for annual sales results are also used to provide ease of protection and empowerment of micro, small and medium businesses. The criteria for annual sales results consist of several characteristics, as follows:

- 1) Micro businesses have annual sales results of up to a maximum of Rp2,000,000,000 (two billion rupiah).
- 2) Small businesses have annual sales results of more than Rp2,000,000,000 (two billion rupiah) up to a maximum of Rp15,000,000,000 (fifteen billion rupiah).

For certain purposes, in addition to the criteria of business capital and annual sales results, ministries/institutions can use the criteria of turnover, net assets, investment value, number of workers, incentives and disincentives, local content, and the application of environmentally friendly technology according to the criteria of each business sector.

Based on the matters stated above, it can be concluded that medium and large businesses as regulated in the MSME Law may not be established in the form of an Individual PT business entity. Article 109 number 2 paragraph (7) letter e and paragraph (8) of the Job Creation Law firmly states that an Individual PT is a PT established by 1 (one) person only, and meets the criteria as a micro and small business according to the MSME Law.

The issuance of the Job Creation Law together with the Limited Liability Company Law and the MSME Law provides convenience for micro and small businesses. The establishment of an Individual Limited Liability Company refers to PP Number 8 of 2021 concerning the Authorized Capital of Companies and Registration of the Establishment, Amendment, and Dissolution of Companies that meet the criteria for Micro and Small Businesses with the following provisions:

- a. Limited Liability Company referred to as Persero is a legal entity established in accordance with the criteria of micro and small businesses.
- b. Make a Statement of Establishment in accordance with the Format in the attachment to PP No. 8 of 2021 PP concerning UMK Capital.
- c. A sole proprietorship is established by only 1 person.
- d. A sole proprietorship is required to have authorized capital and paid-up capital. The same as a Limited Liability Company, the paid-up capital provision is a minimum of 25% of the authorized capital as evidenced by valid proof of deposit.
- e. A sole proprietorship is established by an Indonesian citizen by filling out a statement of establishment in Indonesian.
- f. The Indonesian citizen as referred to must meet the following requirements: must be at least 17 years old and legally competent.

There are several requirements that must be met by the founders in the Establishment of a Sole Proprietorship, namely: 1) Founder's ID card, 2) Founder's NPWP, 3) Address of the Sole Proprietorship, 4) Statement of Establishment of the Sole Proprietorship.

The Statement of Establishment of the Sole Proprietorship is registered electronically with the Minister. The format for filling in the statement of establishment of the Sole Proprietorship is as follows: a) Name and domicile of the Sole Proprietorship, b) Period of establishment of the Sole Proprietorship, c) Purpose and objectives and business activities of the Sole Proprietorship, d) Amount of authorized capital, issued capital, and paid-up capital, e) Nominal value and number of shares, f) Address of the Sole Proprietorship, and g) Full



name, place and date of birth, occupation, residence, population registration number, and NPWP of the founder as well as director and shareholder of the Sole Proprietorship. Submission of the Sole Proprietorship can be done independently and users can access it via the page <https://ahu.go.id> then select the menu icon for the Sole Proprietorship Registration Application or access it directly to the page <http://ptp.ahu.go.id>.

The establishment capital of a Limited Liability Company in the Job Creation Law is based on the agreement of the company's founders, as stated in Government Regulation of the Republic of Indonesia Number 8 of 2021 concerning the Authorized Capital of Companies and Registration of the Establishment, Amendment, and Dissolution of Companies that Meet the Criteria for Micro and Small Businesses (hereinafter referred to as the PP on Authorized Capital and UMK Registration). Article 3 of the PP on Authorized Capital and UMK Registration determines the amount of authorized capital, which is determined based on the decision of the Company's founders.

### **Limited Liability Company as a Legal Entity**

A legal entity can be defined as an association/organization that is treated by law like a human being who has rights and obligations, can own property, can sue and be sued in court. A legal entity is an independent organ like a human being as a legal subject. Theories of legal entities can be divided into 2 (two) groups, namely:

- 1) Theories that seek to eliminate the issue of legal entities, by returning the issue to the people who are the people who are actually entitled. Included in this group are: organ theory, and common wealth theory;
- 2) Theories that seek to maintain the issue of legal entities, are the theory of fiction, the theory of purposeful wealth, and the theory of legal reality.

There are conditions for an association, agency or business entity to be said to have the status of a legal entity. So it is said that the existence of a legal entity depends on which conditions have been met by the association, agency or business entity, and this can be studied from formal legal sources, namely the possibility that. 1. The conditions required by legislation have been met, or 2. the conditions required by jurisprudence have been met, or 3. by doctrine.

#### **a. Legal entity requirements required by statutory regulations**

The requirements for a legal entity as required by statutory regulations, namely by law, in two ways a body or organization can be made a legal entity by referring to Article 1653 of the Civil Code, namely:

- 1) It is expressly stated that an agency or organization is a legal entity.
  - 2) It is not expressly stated, but with such regulations, that the agency is a legal entity.
- So that from these regulations it can be concluded that the agency is a legal entity.

#### **b. Conditions required by custom and jurisprudence**

Custom and jurisprudence are formal sources of law, so that if the requirements for a legal entity are not found in legislation and doctrine, people try to find them in customs and jurisprudence..

#### **c. Requirements required by doctrine**

In legal science, doctrine functions as one of the formal sources of law. In the case of legal entities, the opinion of legal experts is used as a basis for solving problems faced by a writer or as a basis for a judge's decision. The requirements for a legal entity according to doctrine include:

- 1) According to Ali Rido, the existence of separate assets, having a specific purpose, having its own interests, and the existence of an organized organization.
- 2) According to Wirjono Projodikoro, legal entities include: based on the needs of society, and based on the provisions of the law.

Based on the requirements and elements of a legal entity that have been conveyed above, the existence of a Limited Liability Company as a legal entity is based on law. The affirmation of a Limited Liability Company as a legal entity is stated in Article 109 of the Provisions of Article 1 Number 1 of the Job Creation Law, which states:

*"A Limited Liability Company, hereinafter referred to as a Company, is a legal entity that is a capital association, established based on an agreement, carrying out business activities with authorized capital that is entirely divided into shares or an individual Legal Entity that meets the criteria of Micro and Small Businesses as stipulated in the laws and regulations concerning Micro and Small Businesses."*

Based on Article 1653 of the Civil Code, an agency or organization is a legal entity that is expressly stated (uitdrukkelijk). Thus, a Limited Liability Company is a legal entity that has been expressly stated by the Job Creation Law. The elements of a legal entity include: having separate assets, having a specific purpose, having its own interests, and having an orderly organization, established by an authentic deed, and declared as a legal entity by law.

The elements of a Limited Liability Company include: being declared as a legal entity by law, having separate assets, authorized by the government.

A Limited Liability Company fulfills the elements as required by laws and regulations to be called a legal entity, then a Limited Liability Company can be classified as a legal entity.

#### **Analysis of Supervision and Responsibility of Individual Limited Liability Companies**

The provisions contained in Article 1 paragraph (2) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), that there are 3 (three) organs that carry out the activities of Limited Liability Companies, namely: General Meeting of Shareholders (GMS), Board of Directors and Board of Commissioners. Article 109 number 1 point 4 of the Job Creation Law states that the GMS is a company organ that has authority that is not given to the board of directors or board of commissioners within the limits specified in this law and/or the articles of association. Article 92 Paragraph (1) of the 2007 UUPT states that the company organ tasked with carrying out the management of the Company for the benefit of the Company and in accordance with the intent and purpose of the Company is the board of directors. Thus, in the Provisions contained in UUPT Article 114 paragraph (1) to paragraph (5) concerning the Duties and Responsibilities of the Board of Commissioners, namely:

1. The Board of Commissioners is responsible for the supervision of the Company as referred to in Article 108 paragraph (1).
2. Each member of the Board of Commissioners must in good faith, be careful and responsible in carrying out the duties of supervision and providing advice to the board of directors as referred to in Article 108 paragraph (1) for the benefit of the company and in accordance with the intent and purpose of the company.
3. Each member of the Board of Commissioners is personally responsible for the losses of the Company if the person concerned is guilty of carrying out his duties as referred to in paragraph (2).
4. The Board of Commissioners consisting of 2 (two) or more members of the Board of Commissioners, the responsibility referred to in paragraph (3) is a joint responsibility for each member of the Board of Commissioners.
5. Members of the Board of Commissioners cannot be held responsible for the losses as referred to in paragraph (3) if they can prove:
  - a. Has conducted supervision in good faith and with caution for the benefit of the Company and in accordance with the intent and purpose of the Company.
  - b. Has no personal interest either directly or indirectly in the management actions of the Board of Directors that result in losses.

- c. Has provided advice to the Board of Directors, to prevent the occurrence or continuation of such losses.

In a Limited Liability Company, there are no organs as stipulated in Law Number 40 of 2007 concerning Limited Liability Companies, because a Limited Liability Company is sufficient to be established by only 1 (one) person. The establishment of a Limited Liability Company does not provide a place for a commissioner organ, so that internal supervision in a Limited Liability Company is not yet perfect. The principle of accountability is not stated in existing regulations, but basically every company must be able to optimize the empowerment of the functions and independence of organs within the company. So that every decision made by a Limited Liability Company is based on moral values and compliance with laws and regulations.

The Indonesian government is trying to supervise individual companies, including requiring individual companies to provide financial reports that must be reported to the Ministry of Law and Human Rights (Kemenkumham). The financial report of an individual company is done in an electronic report format. The report submitted to Kemenkumham contains the financial report, profit and loss report, and notes to the current year's financial report. All of these reports must be submitted to Kemenkumham within a maximum period of 6 (six) months after the current accounting period. For these financial reports, Kemenkumham issues an electronic receipt of financial reports. Individual companies that do not submit their financial reports will be given sanctions in the form of administrative sanctions in accordance with the violations of the individual company. Administrative sanctions imposed by Kemenkumham against individual companies that do not report their financial reports can be in the form of written warnings, termination of access rights to services or the most severe sanction, namely revocation of the legal entity status of the individual company.

Supervision carried out by the government through the Ministry of Law and Human Rights does not extend to the function of the organs of the Individual Company. The obligation of the Individual Company to prepare financial reports is without any interference from any party or by an interested party to supervise, so there is no certainty regarding the accuracy of the data in the financial reports submitted to the Ministry of Law and Human Rights. Activities and compliance with the individual company and its organs are also not touched by the supervision that has been determined by Law. The thoughts and absolute decisions of the sole shareholder in the Individual Company can be subjective, this is because there is no interested party to supervise the decision of the sole shareholder. The decision of the sole shareholder in the Individual Company is not verified in advance because the Ministry of Law and Human Rights cannot possibly accompany the decision-making process in the Individual Company. Supervision in the Individual Company cannot be guaranteed to be well maintained, this is because the supervision method established by the government does not replace the position of the commissioner's organ tasked with supervising the Company.

It is impossible for the Board of Directors of a Sole Proprietorship to act as a supervisor in its function as well as a manager of the company. This is because it is impossible for an individual to decide something and act as a supervisor of his own decision. It is certain that the same individual in his function of supervising and running the company will produce subjective actions, even though there is a supervisory mechanism within the company, but it is not impossible that there will be abuse of authority because the supervisory and executive positions are in one part, namely the board of directors.

According to the author, supervision in a Sole Proprietorship is very weak, so it is very possible that it can cause uncertainty to the counterparty or its business partners. This can



result in the risk of slow growth and development of the Sole Proprietorship. The consequences of uncertainty over the supervision of the Sole Proprietorship will hinder the intent and purpose of the Job Creation Law, especially the cluster that regulates Sole Proprietorships.

### **Liability of Individual Limited Liability Company**

According to Hans Kelsen translated by Raisul Muttaqien, what is related to legal obligations is legal responsibility, and a person must be responsible for the actions he/she does. Responsibility in the legal dictionary can be termed as liability and responsibility. The term liability refers to legal responsibility in the form of liability due to mistakes made by the legal subject, while the term responsibility refers to political responsibility. The Great Dictionary of the Indonesian Language provides the understanding that responsibility is the obligation to bear everything if something happens, it can be sued, blamed, and sued. In the legal dictionary, the definition of responsibility is a requirement for a person to carry out what has been required of him/her. According to the law, responsibility is a result of the consequences of a person's freedom regarding his/her actions related to ethics or morals in carrying out an action.

Ali Rido expressed the legal capabilities of legal entities, according to him because legal entities are not included in the human category, they cannot obtain all rights, cannot carry out all obligations, cannot carry out all legal acts that can be carried out by humans. Actions by organs of a legal entity that exceed predetermined limits are not the responsibility of the legal entity, but are the personal responsibility of the organ that acts beyond those limits, unless the action benefits the legal entity, or an organ of a higher position then approves the action. And the approval of an organ in a higher position must still be within the limits of its competence. This is in accordance with the provisions contained in article 1656 BW which states:

*"All actions, for which the administrators do not have the power to do, are only binding on the association if the association has actually benefited from it or if the actions have subsequently been legally approved."*

Organ theory, that a Limited Liability Company is represented by an organ, so that legal responsibility carried out by a Limited Liability Company can be requested from the board of directors. Legally, a Limited Liability Company as a legal entity is the one responsible. This was also conveyed by R. Soekardono, that each company is only responsible to the extent of the capital it has invested in the Limited Liability Company.

As a legal entity, legally, in principle, the company's assets are separate from the assets of the founder/owner, therefore legal responsibility is also separated from the personal assets of the owner of the company in the form of a legal entity. That the actions of the board of directors can be the responsibility of the Limited Liability Company as long as the actions are in accordance with their authority as stated in the Articles of Association of the Limited Liability Company, then the actions are considered as actions of the Limited Liability Company.

The theory of legal entities, namely the theory of organs by Otto von Gierke, states that a legal entity is a form of independent business with limited liability (legal entity) which is a legal reality that has its own will and desire which is carried out by its equipment. This is as formulated in Article 3 paragraph (1) of the UUPT which states that: "The Company's shareholders are not personally responsible for obligations made in the name of the Company and are not responsible for the Company's losses exceeding the shares owned." The provisions in Article 3 paragraph (1), then the company law limits the company's liability with the following provisions: 1) The company's shareholders are not personally responsible (personal liability) for obligations made in the name of the company or for losses experienced

by the company, 2) The risk borne by the shareholder is only as much as his investment or does not exceed the shares he owns in the company;

Another change in Article 32 of the UUPT is to provide legal certainty for business actors. The absence of a minimum value provision on the authorized capital of the Company will result in a lack of legal certainty on the provisions of the authorized capital of the Company, which will have an impact on the distrust of the public who will cooperate with the Company. The fear that arises is getting stronger with the formulation of Article 153E paragraph (2), that: "The founder of the Company can only establish a Limited Liability Company for Micro and Small Businesses in the amount of 1 (one) Company for micro and small businesses in 1 (one) year." Based on the formulation of Article 153E paragraph (2), it is possible for MSME business actors to establish a company every year. This is because the formulation of the Article only determines the minimum limit for establishment each year, not the minimum limit for establishment per person. This means that everyone can establish a Sole Proprietorship every year. This makes it very possible for new problems to occur, namely the increasing number of creditors and the possibility for someone to continue to establish a new company every year on the grounds of gaining profit but relying on the limited liability nature of the company.

### **Liability of Sole Proprietorship**

Legal entities such as PT, Foundations, Cooperatives, and so on, based on the law that the company's assets are separate from the assets of its founders/owners. Legal responsibility is also separate from the personal wealth of the capital owner in a legal entity. The separate legal responsibility of the Company with the shareholders is a clear characteristic of a Limited Liability Company, the responsibility of shareholders is limited to the number and value of shares owned without involving their personal wealth.

Thus, if the company carries out an act with another party, then the responsibility lies with the company and is limited to the assets owned by the company. In terms of responsibility, if an organ of the Company acts outside its authority, then the legal entity cannot be held responsible for all the consequences, but the organ is personally responsible for the third party who is harmed. It is different if the organ acts within the limits of the authority given to it, even though an error occurs that can be said to be an unlawful act (*onrechtmatige daad*), the legal entity is still responsible according to article 1365 BW. This is the opinion of most legal experts, such as Paul Scholten.

## **E. CONCLUSION**

The provisions of the UUPT have undergone changes that have quite an impact on the norms and definitions of Limited Liability Companies (PT). In accordance with Article 109 of the provisions in Article 1 number 1 of the Job Creation Law which states: "A Limited Liability Company, hereinafter referred to as a Company, is a legal entity which is a capital association, established based on an agreement, carrying out business activities with authorized capital which is entirely divided into shares or an individual Legal Entity that meets the criteria of Micro and Small Businesses as regulated in the laws and regulations concerning Micro and Small Businesses". Changes to the basic concept of a PT for the presence of an Individual Company are: the founder is only 1 (one) person, the authorized capital in the establishment is based on the founder's approval, and the provisions on the changes obtain the status of a PT legal entity since after registration has been carried out with the relevant agency or Minister and has proof of registration. The Establishment and Existence of an Individual Company is declared as a legal entity by law, which has separate assets, and is authorized by the government.

Based on the study related to the supervision and responsibility of the Individual Company, there are micro and small business entities (UMK) that do not have commissioners as supervisors, so that supervision of the Individual Company's journey is in the weak category. There is no internal supervision within the Individual Company regarding the Board of Directors' policies. Provisions on the aspect of separation of assets that are not part of the important ones because supervision and accountability cannot be clearly identified. This eliminates the element of legal certainty for the progress of the company and Creditors.

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