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Legal Consequences of Violating The Halal Certification Process Through A Self-Declaration Scheme

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Abstract: All micro and small enterprises must register their products under the Halal Product Guarantee Organising Agency's (BPJPH) halal certification program in order to obtain halal certification. BPJPH streamlines the process by offering a more straightforward method for halal certification registration, which involves utilizing the self-declaration scheme. However, this certainly does not excuse violations committed by business actors or other parties. Therefore, the purpose of this research is to shed light on BPJPH's monitoring role in the halal certification process via the self-declare scheme, and to outline the legal repercussions for those who violate these stages. We conducted the research using a normative juridical approach, collecting primary data from statutory regulations and supplementing it with interviews. The research findings show that BPJPH carries out a supervisory function over the halal certification process through a self-declare scheme. This research also reveals that the self-declare scheme will impose administrative sanctions on violators at the halal certification stages. However, the imposition of administrative fines is not yet feasible. We are still studying the limits of fines and the types of violations committed.

Keyword: Halal Certification, Self-Declaration, Halal Product Guarantee, Organising Agency.

INTRODUCTION

In an era that continues to develop as it is today, it can provide an impetus for people to innovate and produce high-quality products. In improving this quality, various ways are carried out, one of which is providing halal certification for the product. This is certainly one of the ways to provide an increase in the quality of a product in Indonesia, considering that Indonesia is one of the countries that has the second largest number of Muslims in the world, namely 236 million people (Muslim Majority Countries, 2024). Certainly the provision of halal certification of a product, especially in food products, namely food and beverages, is a crucial figure in meeting consumer needs, which until now continues to experience development and has high attention to the community, especially those who are Muslim, regarding the halalness of a product (Sakti, 2023).

Announced that every Micro and Small Business product must have its own halal certificate. In order to provide support for this, BPJPH has a new program in providing facilities in the form of flexibility to business actors, especially in Micro and Small Enterprises in declaring halalness in their products without going through a regular certification process (Sakti & Ramadhani, Halal Certification of Micro and Small Enterprises 'Food Products for Consumer Protection', 2023). The halal labeling can be implemented using the self-declaration method. This approach simplifies the process for Micro and Small Business operators, who meet the established regulatory requirements, to register their products and obtain halal certification from BPJPH. Those looking to certify their products as halal can use the SiHalal website, which has been developed by BPJPH to streamline and facilitate the halal certification registration services (Efendy, 2022).

Basically, the difference between the halal certification method through the self-declaration scheme and the regular scheme is in the laboratory examination, where the regular scheme goes through this examination and the self-declaration scheme does not go through this examination and only relies on statements from business actors regarding the halalness of their products. Thus, business actors do not incur any costs in providing halal labeling for their products if they go through the self-declaration scheme.

The self-declaration scheme for halal certification might lead to potential breaches by business actors in following the prescribed halal certification procedures set by the authorities. Business actors who may not have sufficient understanding regarding the necessity of halal labeling of their products will have the potential to commit both intentional and unintentional violations in the process of providing halal certification. Therefore, it is necessary to conduct careful research regarding the legal consequences that will be faced by business actors which are the result of violations committed during the stages of halal certification through this self-declaration scheme.

This research can refer to existing regulations and scientific literature, such as Law No. 33 of 2014 concerning Halal Product Guarantee, implementing regulations, scientific journals, law books, and legal cases related to the self-declaration scheme. An in-depth understanding of the applicable legal and regulatory aspects will help analyze the legal implications of violating the halal certification process through the self-declaration scheme.

In an increasingly competitive industry, consumer confidence in product halalness, especially in beverage and food products, is the key to business sustainability in Indonesia. Therefore, an in-depth understanding of the legal consequences for business actors for violating the halal certification process through the self-declaration scheme is very relevant. This research can contribute to identifying and overcoming potential risks, increasing business actors' compliance with halal regulations, strengthening the certification system to maintain consumer confidence, and ensuring the integrity and safety of halal products on the market.

One example of violations committed by commercial entities in the halal certification process through the self-declare method is the improper use of halal certificates on Nabidz branded wine products. The Nabidz trademark guarantees that the product has a halal certificate that has been issued by BPJPH and is specifically a juice or fruit juice product. This product is eligible for certification through the self-declaration procedure. The reason is, fruit juice is one of the items that is not susceptible to any potential danger or harm. According to regulations, the Halal Product Process (PPH) must conduct verification to ensure the product's halal status (Temukan Pelanggaran, BPJPH Cabut Sertifikat Halal Nabidz, 2023).

Violations were committed by the PPH Facilitator with the initials 'AS' where the verification process was not carried out in accordance with established procedures. AS is known to manipulate halal certification registration data where the stages of making Nabidz

fruit juice pass the fermentation stage. Thus, AS as a PPH Facilitator can stop the stages and provide business advice to register for regular halal certification (Pamuji, 2023).

In this case, violations were also carried out by business actors with the initials BY who included halal labels on products that were different from those registered with BPJPH through the self-declaration scheme. The product registered by BY is a grape fruit juice product and intentionally includes the halal certificate on wine products.

The responsibility for Supervision carried out by PPH Assistants and business actors in carrying out the halal certification process through the self-declaration scheme is quite large. Both are required to carry out the verification process in accordance with predetermined procedures in order to maintain public confidence in a product that has been halal certified through the self-declaration scheme. However, the problems that arise regarding the implementation of halal certification through this self-declaration scheme indicate that there is weak supervision and awareness of the legal consequences that will be caused by both PPH Supervisors and business actors.

METHOD

The method used in this study is a normative juridical approach, as it relies on legal rules and regulations to find solutions to the problem being investigated (Marzuki, 2011) which is then analyzed using a qualitative method. This research employs a normative juridical approach, incorporating both statutory and conceptual methods. The legal data sources utilized include secondary data, with primary legal materials such as the 1945 Indonesian Constitution; Law No. 33 of 2014 on Halal Product Guarantee (State Gazette of the Republic of Indonesia of 2014 No. 295, Supplement to State Gazette No. 5604); Law No. 8 of 1999 on Consumer Protection (State Gazette of the Republic of Indonesia of 1999 No. 42, Supplement to State Gazette No. 3821); Law No. 11 of 2020 on Job Creation (State Gazette of the Republic of Indonesia of 2020 No. 245, Supplement to State Gazette No. 6573); Government Regulation No. 31 of 2019 on the Implementation of Law No. 33 of 2014 on Halal Product Guarantee; and Government Regulation No. 39 of 2021 on the Implementation of the Halal Product Guarantee Sector. This is complemented by secondary legal materials such as scientific articles, research findings, books, and scientific journals, and further supported by tertiary legal materials in the form of dictionaries. Data collection is conducted through literature studies on various existing legal sources (Fajar & Achmad, 2010).

RESULTS AND DISCUSSION

Supervision of the Halal Product Guarantee Agency of the Halal Certification Process through the Self Declare Scheme

BPJPH aspires to become the world's foremost provider of halal product assurance by establishing an efficient system for guidance and supervision. By overseeing the licensing of products from Micro and Small Businesses, BPJPH aims to enhance the competitiveness of these business actors, encouraging them to produce higher quality products. This supervisory role is intended to ensure that Micro and Small Enterprises not only compete effectively in local markets but also gain the capability to compete on an international scale.

However, the encouragement of Micro and Small Business actors to obtain halal certificates and develop their businesses can lead to behaviors that can harm consumers such as false halal labeling without going through labeling procedures that are in line with statutory regulations (Harahap, 2018). Especially when Micro and Small Business actors register their products to obtain halal certificates through a self-declaration scheme. Violations that will be carried out at the stages of halal certification will be more easily implemented by the parties concerned. One of them is by manipulating data related to the registered product.

The enactment of Law No. 33 of 2014 regarding the Assurance of Halal Products is viewed as a pivotal legal framework that significantly bolsters the assurance and provision of halal products for the populace of Indonesia, particularly the Muslim demographic. This legislation stands as a cornerstone for the government, addressing the pressing demands of the community by ensuring the accessibility and assurance of halal-certified products in the market.

The authority of BPJPH based on Article 5 of PP No. 39 of 2021 regarding the Implementation of the Halal Product Guarantee Field states as follows:

"In implementing Halal Product Guarantee, BPJPH has the authority:

1. *Make and implement policies that guarantee the guarantee of halal products.*
2. *Develop regulations, guidelines, protocols, and benchmarks to ensure the authenticity and compliance of Halal products;*
3. *The process of granting and revoking halal certificates and affixing Halal labels on products.*
4. *Application for halal certification of imported goods;*
5. *Involved in socialization, teaching, and promotion of halal products;*
6. *Granting accreditation to LPH;*
7. *Register the Halal Auditor.*
8. *Supervise the guarantee of Halal product standards;*
9. *Conduct training sessions for Halal Auditors;*
10. *Establishing partnerships with domestic and foreign entities to implement JPH."*

When carrying out the authority possessed as in Article 5 of PP No. 39 of 2021 regarding the Implementation of the Halal Product Guarantee Sector, one of which is by carrying out supervision of Halal Product Guarantee, BPJPH in Article 48 Point 4 of Law No. 2 of 2022 regarding Job Creation, states that *"When exercising authority as described in Article 6, BPJPH cooperates with: LPH; related ministries and / or institutions; and MUI, both Provincial, to City / Regency, or Aceh Ulama Consultative Assembly."*

Based on Article 95 of PP No. 39 of 2021 regarding the implementation of the Halal Product Guarantee Sector which reads: *"(1) BPJPH carries out supervision of Halal Product Guarantee. (2) Supervision of Halal Product Guarantee as described in paragraph (1) is carried out on:*

1. *Halal Inspection Agency.*
2. *Halal Certificate validity period.*
3. *Product health.*
4. *Halal certification label integration;*
5. *inclusion of non-halal information;*
6. *Separation of facilities, areas, and equipment for the purposes of slaughtering, processing, storing, packaging, distributing, selling, and serving halal and non-halal products.*
7. *the presence of a Halal Supervisor; and / or*
8. *additional efforts related to guaranteeing the authenticity of halal products"*

In accordance with the articles above, BPJPH can carry out supervision either simultaneously or individually with related institutions or ministries whose implementation is carried out in line with statutory provisions.

Based on the expression of George R. Terry, it is explained that supervision is a stage to determine a matter related to what is being implemented, to evaluate the implementation and if necessary to implement corrective actions in such a way that the implementation is in line with the plan (Terry, 2005). Based on the expression of T. Hani Handoko, supervision is the stages to provide assurance that all objectives of the organization and management can be achieved properly (Handoko, 2003). This definition shows that there is a very close correlation between making plans and supervision, as well as the stages in the supervision process, namely making plans, ensuring goals, standards or targets for implementing an

activity. Siagian P. Sondang also said that supervision is the stages of observation of the implementation of all activities being carried out by an organization with the aim of providing assurance that all work carried out has been running in line with the initial plan (Sondang, 2001).

The incorporation of one of BPJPH's functions, namely its supervisory authority through collaboration with external entities, is anticipated to influence the procedural progression of halal certification, particularly within the context of a self-declaration framework. This process, perceived as protracted and potentially involving multiple stakeholders, poses challenges such as extended timelines and complexities for businesses, thus heightening the risk of conflicts of interest. Consequently, there arises a necessity for governmental intervention aimed at streamlining the application and issuance procedures for halal certification under the self-declaration scheme. Furthermore, efforts should be directed towards disseminating information about the implementation of halal product assurances and establishing additional regulatory frameworks to govern the technical aspects of halal product guarantees (Sayekti, 2014).

In Article 104 letter a of PP No. 39 of 2021 concerning the Implementation of the Halal Product Guarantee Field, it reveals that “*When exercising authority as described in article 5, BPJP Halal cooperates with: a. related institutions and / or ministries;*” This entails BPJPH engaging in collaborative efforts with pertinent ministries, such as the Ministry of Religion, to facilitate the halal certification procedure via a self-declaration mechanism. The overarching aim is to realize the objectives outlined in implementing halal product assurances, which encompass ensuring the security, reassurance, reliability, and safety of halal products. By instilling confidence in the public regarding the consumption and utilization of such products, this initiative not only enhances consumer trust but also generates additional value for business entities engaged in the production and sale of halal products.

In this case, BPJPH carries out this function by imposing sanctions on violators both on business actors and Halal Examining Institutions. The provision of sanctions by BPJPH is in the form of administrative sanctions. In cases where business entities are found to be in breach of regulations, they may be subject to various administrative penalties. These penalties can take the form of administrative fines, written warnings, revocation of Halal Certificates, and/or removal of goods from circulation. Similarly, if the Halal Examining Agency itself is found to be in violation, it may face administrative repercussions, such as fines, written warnings, or even temporary suspension of its operations. Such measures are put in place to uphold the integrity of the halal certification process and ensure compliance with regulatory standards.

Implementation of the supervisory function by BPJPH in the form of administrative sanctions is based on 2 (two) things, namely findings and reports. The findings are active, which means that the supervisory team from BPJPH directly finds violations carried out by both business actors and Halal Examining Institutions. In the violation finding form, the minimum contains the personal data of the officer who is suspected of committing the violation, the personal data of the parties allegedly involved in committing the violation, as well as an explanation regarding the alleged violation. Meanwhile, the report is passive, which means that individual citizens, private or public legal entities, and community organizations provide reports related to violations of the halal certificate through the self-declaration scheme at BPJPH, which will be further processed and followed up by an inspection team directly appointed by the Head of BPJPH.

In terms of providing criminal sanctions, BPJPH does not have the authority and this authority is given to the Law Enforcement Officials in Indonesia. This is because in the BPJPH structure there is no separate Civil Servant Investigator Officer. Thus, BPJPH can only carry out the supervisory function by imposing administrative sanctions. In terms of

imposing criminal sanctions on violators, BPJPH only acts as a supporting device, namely as a witness and provides testimony both at the investigation and prosecution stages.

Legal Consequences for Business Actors Regarding Violations Committed During the Halal Certification Process Through the Self-Declare Scheme

Legal effects are consequences arising from the law in relation to an activity carried out by a legal entity. Legal effects stem from the activities used to achieve the outcome anticipated by the lawbreaker. The activities carried out are legal, i.e. they comply with the relevant law, and the results of concern are the consequences regulated by law.

The process involved in obtaining halal certification via the self-declaration scheme represents a streamlined approach compared to the standard procedure. This streamlined process incorporates several advantageous elements, including exemption from fees for micro and small-scale business entities, enhanced time efficiency, and the implementation of more efficient licensing and supervision mechanisms. By simplifying the certification process through these means, it becomes more accessible and less burdensome for smaller businesses, while still maintaining rigorous standards and oversight (Al-Afghani & Bisariyadi, 2021). The government extends support to micro and small-scale business entities by offering concessions in the realm of halal product labeling. However, it's imperative that any assertion regarding the halal status of products by these smaller enterprises adheres strictly to the standards set forth by BPJPH. This alignment with established standards ensures the integrity and credibility of halal declarations from micro and small-scale businesses, thereby fostering consumer trust and confidence in the products they offer (Charity, 2017). Nevertheless, there exists a considerable potential for violations within the halal certification process under the self-declaration scheme. This susceptibility stems from the inclination of micro and small-scale business entities to resort to dishonest practices in order to ensure widespread circulation of their products bearing the halal label.

Based on its nature, most of the provisions that have been regulated in Law No. 33 of 2014 concerning Halal Product Guarantee have entered the realm of public law. This means that each provision that has been regulated does not just contain norms, but contains sanctions for violations committed against the provisions that have been determined (Farid, 2019). In the law related to halal certification, business actors who violate the stages of halal certification through the self-declaration scheme will be given administrative sanctions (Hosen, 2022).

Administrative sanctions that can be imposed by BPJPH on business actors who carry out violations through the self-declaration scheme, including giving written warnings, administrative fines of up to IDR 2,000,000,000.00 (two billion rupiah), revocation of halal certificates, and withdrawal of goods from circulation. These sanctions are imposed by BPJPH in line with the types and levels of violations carried out by business actors in line with Article 150 of PP No. 39 of 2021 regarding the implementation of the Halal Product Guarantee Field. BPJPH has the authority to apply administrative penalties in a progressive manner, allowing for flexibility in their enforcement. These penalties may be applied individually, in sequence, or combined, depending on the findings of the inspection and the discretion of the Head of BPJPH as outlined in the Inspection Minutes.

In its essence, the implementation of sanctions by BPJPH against Business Actors found to have breached the halal certification process under the self-declaration scheme is predominantly confined to administrative actions. However, if these sanctions are not carried out in accordance with the predetermined rules, it is possible to be brought into the realm of crime and impose criminal sanctions by the authorized Law Enforcement Officials. That criminal sanctions for violations at the stages of halal certification through the self-declaration scheme can be imposed on 2 (two) things, including business actors who have received a halal certificate by BPJPH but cannot maintain their halalness and anyone who

cannot maintain the confidentiality provided by business actors (Mohammad, 2021). The legal substance of the legal order on halal product guarantees has to do with the laws and regulations that run and bind things that are used as guidelines for officials in charge of law enforcement in executing laws and regulations on halal product guarantees (Kusnadi, 2019).

In this case, administrative sanctions in the form of administrative fines of up to IDR 2,000,000,000.00 (two billion rupiah) cannot be imposed. This is related to the fact that BPJPH has not provided the type of violation along with the amount of administrative fines that will be given. So, in this matter the Halal Product Guarantee Executive Agency is still in the process of assessment.

CONCLUSION

One of the responsibilities delegated to BPJPH concerning the halal certification process via the self-declaration scheme is to oversee the assurance of Halal Product Guarantee. This oversight entails the application of administrative sanctions for any infringements occurring within the halal certification process under the self-declaration scheme. The administrative penalties applicable to Micro and Small Business actors found in violation of this process include written warnings, administrative fines, revocation of Halal Certificates, and/or withdrawal of goods from circulation. These sanctions may be applied alternately, progressively, or cumulatively, contingent upon the examination outcomes and the determination of the Head of BPJPH.

Currently, the imposition of administrative fines, with a maximum threshold of IDR 2,000,000,000.00 (two billion rupiah), is not yet feasible due to the absence of detailed regulations specifying the categories of violations and corresponding fine amounts. However, efforts are underway to expedite the completion of a study related to the imposition of administrative fines, with the aim of promptly implementing these penalties against Micro and Small Business actors who violate the certification stages through the self-declaration scheme, thus amplifying their deterrent effect.

In addition to enforcement measures, the Government extends support to Micro and Small Business actors by reducing the costs associated with the halal certification process. It is hoped that the imposition of administrative fines will serve as a deterrent, thereby minimizing violations committed by Micro and Small Business actors.

REFERENCE

- Al-Afghani, M. M., & Bisariyadi. (2021). Konsep Regulasi Berbasis Risiko: Telaah Kritis Dalam Penerapannya Pada Undang-Undang Cipta Kerja. *Jurnal Konstitusi*, 68.
- Charity, M. L. (2017). Jaminan Produk Halal di Indonesia (Halal Products Guarantee In Indonesia). *Jurnal Legislasi Indonesia*, 99-107.
- Efendy, D. K. (2022). Sosialisasi dan Pendampingan Sertifikasi Halal Menggunakan Aplikasi SiHalal Pada Pelaku UMKM Di Desa Salo Palai. *Jurnal Pengabdian Kepada Masyarakat Nusantara*, 1106-1113.
- Fajar, M., & Achmad, Y. (2010). *Dualisme Penelitian Hukum Normatif & Empiris*. Yogyakarta: Pustaka Pelajar.
- Farid, W. (2019). *Jaminan Produk Halal di Indonesia*. Depok: Rajawali Press.
- Handoko, T. H. (2003). *Manajemen Sumber Daya Manusia dan Perusahaan*. Yogyakarta: BPFE.
- Harahap, R. Z. (2018). Pengawasan Dan Koordinasi Sertifikasi Halal. *De Lega Lata: Jurnal Ilmu Hukum*, 114-115.
- Hosen, M. N. (2022). Analisis Undang-Undang Tentang Jaminan Produk Halal dan Undang-Undang Tentang Cipta Kerja (Antara Kenyataan dan Keberlanjutan). *Yudisia: Jurnal Pemikiran Hukum dan Hukum Islam*, 116.

- Kusnadi, M. (2019). Problematika Penerapan Undang-Undang Jaminan Halal di Indonesia. *Jurnal Islamika*.
- Marzuki, P. M. (2011). *Penelitian Hukum*. Jakarta: Kencana.
- Mohammad, M. F. (2021). Pengaturan Sertifikasi Jaminan Produk Halal di Indonesia. *Kertha Wicaksana*.
- Muslim Majority Countries*. (2024, February 19). Diambil kembali dari World Population Review: <https://worldpopulationreview.com/country-rankings/muslim-majority-countries>
- Pamuji, S. (2023, August 22). *Temukan Pelanggaran, BPJPH Cabut Sertifikat Halal Nabidz*. Diambil kembali dari Kementerian Agama Republik Indonesia: [https://www.kemenag.go.id/nasional/temukan-pelanggaran-Badan Penyelenggara Jaminan Produk Halal-cabut-sertifikat-halal-nabidz-RuOuo](https://www.kemenag.go.id/nasional/temukan-pelanggaran-Badan_Penyelenggara_Jaminan_Produk_Halal-cabut-sertifikat-halal-nabidz-RuOuo)
- Sakti, M. (2023). The Urgency of Global Halal Standards on Products in Supporting International Trade. *Law Research Review Quarterly*, 553-582.
- Sakti, M., & Ramadhani, D. A. (2023). Halal Certification of Micro and Small Enterprises 'Food Products for Consumer Protection'. *Amsir Law Journal*, 23-36.
- Sayekti, N. W. (2014). Jaminan Produk Halal Dalam Perspektif Kelembagaan. *Jurnal Ekonomi dan Kebijakan Publik*, 193-209.
- Sondang, S. P. (2001). *Manajemen Sumber Daya Manusia*. Jakarta: Bumi Aksara.
- Temukan Pelanggaran, BPJPH Cabut Sertifikat Halal Nabidz*. (2023, August 21). Diambil kembali dari Badan Penyelenggara Jaminan Produk Halal Kementerian Agama RI: [https://Badan Penyelenggara Jaminan Produk Halal.halal.go.id/detail/temukan-pelanggaran-Badan Penyelenggara Jaminan Produk Halal-cabut-sertifikat-halal-nabidz](https://Badan_Penyelenggara_Jaminan_Produk_Halal.halal.go.id/detail/temukan-pelanggaran-Badan_Penyelenggara_Jaminan_Produk_Halal-cabut-sertifikat-halal-nabidz)
- Terry, G. R. (2005). *Prinsip-Prinsip Manajemen*. Jakarta: Bumi Aksara.