



DOI: <https://doi.org/10.38035/jlph.v4i6>
<https://creativecommons.org/licenses/by/4.0/>

Authority of the Regional Government in Processing Oil Palm Plantation Licensing in Kampar Regency

Maya Intan Pratiwi¹, Hengki Andora²

¹Faculty of Law, Andalas University, Indonesia, mayaintanpratiwi09@gmail.com

²Faculty of Law, Andalas University, Indonesia, hengkiandora@gmail.com

Corresponding Author : mayaintanpratiwi09@gmail.com.

Abstract: Opportunities for oil palm plantations and the oil palm processing industry are still in high demand, both to meet domestic and foreign markets. This condition is a promising business opportunity for the company. Even in times of economic crisis, it has proven to be able to survive and continue to grow. In this study, first, the authority of the local government in processing oil palm plantation licensing in Kampar Regency is in terms of issuing location permits, issuing plantation business permits and supervising plantation activities, but at the implementation stage there have been procedural violations in the field of oil palm plantation licensing in Kampar Regency, which indicators can be seen from the stages that have been exceeded or not implemented in the process of issuing oil palm plantation licenses. *Second, the* factors that hinder the granting of oil palm plantation permits in Kampar Regency are complex and changing requirements, licensing regulations that are often updated and the addition of new requirements make the licensing process longer and more complex, this is often a complaint from business actors, overlapping authorities, land conflicts, environmental considerations, pressure from the community, limited human resources, budget, and infrastructure in the local government can be hindering the effectiveness of the implementation of supervision and control over plantation activities. And corrupt practices in the licensing process are often suspected by the public, this can slow down or even stop the licensing process.

Keywords: Plantations, Licensing and Authority of the Kampar Regency Regional Government Background of the Problem

INTRODUCTION

Based on Law Number 32 of 2004 concerning Regional Government as replaced by Law 23 of 2014 which was followed up by Government Regulation Number 38 of 2007 concerning the Division of Government Affairs between the Government, Provincial Regional Governments, and Regency/City Regional Governments, based on Article 14 paragraph (1) letter j of Law Number 32 of 2004 and Article 7 paragraph (2) letter b and Attachment Letter H of Government Regulation Number 38 of 2007, has been handed over the affairs of "Agriculture", including the sub-field of "Plantations" as a matter of choice to

the provinces, districts and cities. One of the matters that has become the authority of the Regency/City government is the policy of granting plantation business licenses, monitoring and supervision of plantation business licenses in the district/city area, with the handover of the authority to grant oil palm plantation business licenses to the Regency/City Government, the area of plantation business land in the Regency/City area is increasing.

Based on the Administrative Law, permits are juridical instruments used by the government to influence citizens to follow the recommended way to achieve a concrete goal. As a legal instrument, permits function as a spearhead or tool that aims to direct, control, engineer, and design a just and prosperous society. Through the permit, it can be seen how the image of a just and prosperous society is realized, which means that the requirements contained in the permit are the controllers in functioning the permit itself.¹

One of the regulations that has an important role in regulating plantation permits in Indonesia is the Regulation of the Minister of Agriculture Number 98/Permentan/OT.140/9/2013 concerning Guidelines for Plantation Business Licensing. Ministerial Regulation No. 98/Permentan/OT.140/9/2013 is a continuation of, or operational rules of the provisions of Law No. 18 of 2004 as amended by Law 39 of 2014 concerning Plantations regarding the use of land for plantations, certain land areas, plantation business licenses, and partnership patterns.

In the case of existing oil palm plantation conflicts, there is no doubt that the development of the plantation sector, especially oil palm, gives rise to conflicts in various forms between the community and business entities, both state-owned and private. This situation can be explained in theory and reality in the field. Theoretically, the development of the oil palm plantation sector requires land on a mega hectare scale as the main production factor, while on the other hand, what is called land that is directly controlled by the state is not as much as state land that is under the control of the community. This reality is what causes state lands under the control of the community to be targeted to be used as land for oil palm plantation development projects. It is in this situation that the conflicts begin which then develop with variants of causes, effects, and impacts.²

The conflict that accompanies the development of the oil palm plantation sector is very closely related to the land issue. Land as the main production factor must exist before oil palm plantations are built. However, the land needed by the plantation business is in fact in the control of the community. The community feels deceived and trapped in agreements through false promises and ignores their voices in the policy-making process and from the many irregularities in land acquisition carried out by oil palm plantation companies, the most serious legal problems include that customary rights are not recognized, oil palm plantations are built without permission from the government, information is not provided to the community, agreements without negotiations, customary leaders are used to force the sale of land, compensation payments are not made, promised profits are not given, plantations for farmers are not distributed or built, farmers are burdened with unclear credit, AMDAL is late in being prepared, land is not managed within the stipulated time, community rejection is suppressed through violence and the deployment of the apparatus and serious human rights violations occur.

The local government's policy of granting permits to oil palm plantation businesses which should be able to control plantation business activities in accordance with its main goal of improving community welfare, it turns out that the licensing policy given to some oil palm plantation business investors actually has a wide impact on communities whose land is affected or included in land given a plantation business location

¹ Ridwan. HR, 2003, *State Administrative Law*, UII Press, Yogyakarta, p. 160.

² Rustam Efendi Lubis & Agus Widanarko SP, 2011, *Buku Pintar Kelapa Sawit*, PT. Agro Media Pustaka, Jakarta,

by the Regional Government. This, of course, has a wide impact on the region and the country because it causes massive defense conflicts or plantation land disputes between the community and oil palm plantation companies.

METHOD

The methodology in the research is qualitative with the Empirical Law Research method. The legal materials used are primary, secondary and tertiary legal materials collected through field research and literature that are analyzed in *a prescriptive way*. The above is in accordance with the concept of this study, which is to analyze the Authority of the Regional Government in Processing Oil Palm Plantation Licensing in Kampar Regency as a social phenomenon by using a legal perspective with this type of research, the researcher will get information from various aspects regarding the issue being studied.

RESULTS AND DISCUSSION

Authority of the Regional Government in Processing Oil Palm Plantation Licensing in Kampar Regency

The term authority theory comes from the English translation, namely *authority of theory*.³ Authority and authority are often equated with meanings which are fundamentally very different. Authority is the power that comes from the power granted by the Law or the legislature from the executive or administrative power. While authority only relates to a certain part of authority as stated by Ateng Syafrudin that the elements contained in authority are the existence of formal power and power granted by law while the element of authority only relates to a certain *onderdeel* (part) of authority.⁴

Authority is sourced from laws and regulations consisting of, attribution, delegation and mandate.⁵ Philipus M. Hadjon said that there are three sources for state administrative agencies or officials in obtaining authority, namely attribution, delegation and mandate.⁶ The authority of attribution is usually outlined through the division of state power by the Constitution, while the authority of delegation and mandate is the authority that comes from delegation.⁷

The authority to issue plantation business permits is given to the governor for cross-district/city areas, to the regent/mayor for areas within a district/city and by the Minister if the plantation area is cross-provincial as regulated in Article 48 paragraphs (1) and (2) of Law 39 of 2014 concerning Plantations that:

- a. Plantation Business Permits as referred to in Article 47 paragraph (1) are granted by:
Governors for cross-district/city areas; and
- b. Regent/mayor for an area within a district/city.

In the event that the Plantation Business land is located in a cross-provincial area, the permit is granted by the Minister.

The authority of Regional Heads, in this case the Governor, Regent/Mayor and Minister in issuing plantation business permits is the authority delegated by the Law to take legal action not in the form of attribution or mandate. Indroharto mentioned that authority is obtained by attribution, delegation, and mandate, each of which is explained as follows:

³ Salim HS and Erlies Septiana Nurbani, 2013, *Application of Legal Theory to Dissertation and Thesis Research. Print I*, PT RajaGrafindo Persada. Jakarta, p. 183.

⁴ *Ibid.*, p. 184.

⁵ *Ibid.*

⁶ Philipus M. Hadjon, 1993, *Introduction to Indonesia Administrative Law*, Gajah Mada Press, Yogyakarta, p. 137.

⁷ Philipus M. Hadjon, 1994, *The Normative Function of Administrative Law in Realizing a Clean Government*, Faculty of Law, Airlangga University, Surabaya, p. 7

authority obtained by attribution, namely the granting of new government authority by a provision in laws and regulations. So, here a new government authority was born. In delegation, there is a delegation of an authority that already exists by the TUN Agency or Position that has obtained a government authority attributively to other TUN Agencies or Positions. So, a delegation is always preceded by an attribution of authority. In the mandate, there is no granting of new authority or delegation of authority from one TUN Agency or Position to another.⁸

Another view, Stroink and Steenbeek, as quoted by Ridwan, expressed the view that there are only two ways to obtain authority, namely attribution and delegation. Attribution concerns the delegation of new authority, while delegation concerns the delegation of existing authority (by an organ that has acquired authority attributorially to another organ, so delegation logically always precedes attribution). Regarding the mandate, there is no talk about the transfer of authority or the elimination of authority. In the case of the mandate there is no change in authority whatsoever (in the formal juridical sense), there is only an internal relationship".⁹

Based on the description above, the granting of oil palm plantation permits is a fairly complex authority and involves various levels of government. At the Kampar Regency level, this authority is generally regulated in local Regional Regulations (Perda) and higher laws and regulations. In general, the Kampar Regency Government has the authority to:¹⁰

1. Issuing location permits: These are the initial permits required to determine the location of the plantation.
2. Issuing plantation business licenses: This permit provides legality for companies to carry out plantation activities in predetermined locations.
3. Supervise plantation activities: The local government is authorized to supervise to ensure that the company carries out activities in accordance with applicable regulations and does not harm the environment and the surrounding community. However, keep in mind that this authority is not absolute.

There are several factors that need to be considered, namely *First*, higher laws and regulations, in this case the authority of the Kampar Regency Government must be in accordance with higher laws and regulations, such as Law Number 39 of 2014 concerning Plantations and its implementing regulations. *Second*, coordination with related agencies in granting plantation permits often involves such as the Environment Agency, the Agriculture Office, and the National Land Agency. *Third*, consideration of environmental and social aspects in granting permits must consider aspects such as the impact on ecosystems, indigenous peoples, and regional spatial planning.¹¹

Based on the mandate of Presidential Instruction (Inpres) Number 6 of 2019 concerning the National Action Plan for Sustainable Oil Palm Plantations for 2019-2024, it states to increase the capacity and capabilities of smallholders, settle the status and legalization of land, utilize palm oil as a new and renewable energy and increase diplomacy to achieve sustainable oil palm plantations, accelerate the achievement of sustainable oil palm plantations in Indonesia.¹²

⁸ Indroharto, 1993, *Efforts to Understand the Law on State Administrative Justice*, Pustaka Harapan, Jakarta, p. 90

⁹ Ridwan, HR, *State Administrative Law...*, *Op., cit.*, p. 74.

¹⁰ Results of an interview with Mr. Idrus as Secretary of the Kampar Regency Plantation Office, on August 24

¹¹ Irfan Bakhtiar et al., 2019, *Our Forests Are Palm Oil: Settlement Ideas for Oil Palm Plantations in Forest Areas*, KEHATI, Jakarta, p. 31.

¹² The National Coordination Meeting (Rakornas) of the National Action Plan for Sustainable Oil Palm Plantations delivered by Mr. Ilias Tedjo Prijono as the Director General of Land Dispute and Conflict Management, on March 28, 2024

Based on the description above, the Regional Government (Pemda) in carrying out the oil palm licensing process carries out several models and methods, namely:¹³

1. Land Acquisition Procedures

To provide services to potential investors to obtain land, it can be processed through procedures based on applicable regulations and regulations. The sequence of activities to acquire plantation business land is:

a. Land Information

The company submits an application for Land Information to the Regent with a copy of the head of the Regency BAPPEDA, the Head of the Regency Forestry and Plantation Service and the Head of the Regency Land Office. The application is listed as the area and location of the land requested accompanied by a 1:250,000 scale map and in addition to that attached is the company deed and company profile. The approved Land Information Letter is signed by the Regent to be submitted to the company.

b. Pra Survey

The company submits a pre-survey application letter to the Head of the Regency BAPPEDA and subsequently a Research/Survey Permit Letter containing the names of the Head of the research team and the participants. The results of the survey were reported to the Regent of Cq. BAPPEDA with a copy of the Head of the Regency Forestry and Plantation Service after being exposed at the Bappeda Office by inviting related parties.

c. Feasibility Study

The feasibility study prepared by the consultant appointed by the company is a long-term plan of the company in the field of plantation business. The purpose and purpose of the implementation and preparation of the feasibility study, to find out whether the plantation development projects that are being and will be implemented/financed are feasible (*fisible*) if implemented and developed. A feasibility study is a research and discussion to be able to provide a detailed and systematic overview and information based on various aspects which in general include legal and general aspects, technical and technological aspects, market and marketing aspects, social and environmental aspects, *management* and operational aspects, economic and financial aspects and other aspects that are considered relevant.

d. Location Permit

Companies that have carried out pre-surveys and carried out *exposes* on the survey results submit an application for a location permit to the Regent. The location permit is processed by the Governance Section of the Regency Regional Secretariat signed by the Regent, after receiving Recommendations/Technical Considerations from the relevant agencies and the Regency Land Office. The location permit contains the area, location and requirements related to plantation development business activities. The location permit is valid for 36 (thirty-six) months from the date of determination, and can be extended 1 (one) time for 1 (one) year if the land acquisition has reached more than 50% of the land area designated in the location permit. The application for the extension of the location permit is submitted to the Regent for 3 (three) months before the expiration of the validity period of the location permit.

e. Environmental Documents

In accordance with the Regulation of the Minister of State for Environment of the Republic of Indonesia No. 11 of 2006 as amended by the Regulation of the Minister of State for Environment No. 5 of 2012 concerning Business Plans and or Activities that are required to Conduct Environmental Impact Analysis (EIA), that all types of plantation crops with an area of more than 3,000 Ha must be

¹³ Results of an interview with Mr. Idrus as Secretary of the Kampar Regency Plantation Office, on August 24

equipped with an Environmental Impact Analysis (EIA) and less than 3,000 Ha must be equipped with Environmental Management Efforts (UKL) and Environmental Monitoring Efforts (UPL).

f. Land Acquisition

Companies that have obtained a Location Permit carry out land acquisition directly with interested parties through buying and selling or rights release events carried out in front of the Land Deed Making Officer (PPAT) or a deed of release of rights in front of the local PPAT with the provision of compensation. The payment of compensation for land, planting and or building on it or other goods belonging to the holder of land rights, must be given directly to the rightful person, not allowed through an intermediary. Furthermore, the permit recipient is required to immediately submit an application for land rights to the authorized official in accordance with the applicable procedures.

g. Field Inspection

Companies that have received permits, will carry out land clearing activities in forested areas must obtain a Timber Utilization Permit (IPK). To complete the GPA application, a field physical inspection was carried out by a team consisting of officers from the District Forestry and Plantation Service (Forestry Division), and the District Bappeda. The results of the field inspection are outlined in the Minutes of the Field Inspection Results. Based on the minutes, the Head of the Regency Forestry and Plantation Service issued a Letter of Support, Application for a Timber Utilization Permit by listing the area to be utilized. Based on this support, the company requested a GPA to the head of the Regency Forestry and Plantation Service and subsequently processed and issued the GPA.

h. Recommendations

The application is submitted in writing by the applicant sent by registered mail or similar facilities in 3 (three) copies to the Director General of Plantations in order to obtain Technical Recommendations for companies that carry out Domestic Investment/Foreign Investment, and to the Governor for Recommendations on Conformity with the Plantation Development Macro Plan.

i. Plantation Business License (IUP)/Processing Plantation Business License (IUP-P)/Cultivation Plantation Business License (IUP-B)

Plantation companies submit an application for IUP/IUPP/IUP-B to the Regent, to be subsequently processed by the Regency Forestry and Plantation Service after receiving a Recommendation from the Governor, and from the Director General of Plantations of the Ministry of Agriculture of the Republic of Indonesia for Companies that carry out Domestic Investment/Foreign Investment.

j. Business Purposes (HGU)

The company submits an application for the Right to Use Business (HGU) to the Regent which will be processed by the Head of the Regency Land Office, then with a letter of introduction submitted to the Provincial BPN Regional Office or Central BPN in order to obtain an HGU Decree (SK) containing the area and location of the land according to the authority of the size of the area given. The land provided by the HGU must be used for plantation business with plants that have been determined. Every change in the implementation of the business, designation and form of act intending to transfer HGU on the plantation land requires prior permission from the Head of BPN. HGU recipients are obliged to carry out and maintain, avoid the neglect of the land cultivation/sustainability, and guard against any possible cultivation efforts by third parties.

k. Equipment/Heavy Equipment

Before the equipment/heavy equipment goes to the field/is landed at the plantation

location, it must first be reported to the Regent Cq. Head of the Regency Forestry and Plantation Service for further recommendations will be given, if the equipment has entered the location, it will be checked by the Regency Forestry and Plantation Service.

The types of plantation businesses consist of plantation crop cultivation businesses and plantation product processing industry businesses. Plantation businesses can be carried out in the district area by paying attention to macro planning for plantation development both in the district and provincial areas. Foreign legal entities or individual foreign citizens who conduct plantation businesses are required to cooperate with domestic plantation business actors by forming an Indonesia legal entity and domiciled in Indonesia. Plantation plant cultivation businesses with a land area of less than 25 (twenty-five) hectares must be registered by the Regent.¹⁴

Registration of plantation cultivation business, among others, includes information on identity, domicile of owner, area area, type of plant, origin of seeds, production level, and location of the plantation. Plantation plant cultivation businesses that have been registered are given a Plantation Cultivation Business Registration Certificate (STD-B) by the Regent. Plantation plant cultivation businesses with a land area of 25 (twenty-five) hectares or more are required to have a permit. Permits are given to plantation companies. Plantation product processing industry businesses with a capacity below the minimum limit, namely Palm Oil Processing Factories (PKS) with a capacity of 5 tons of FFB/hour, must be registered by the Regent. The registration of the plantation product processing industry includes information about the identity and domicile of the owner, the location of the processing industry, the type of product that is the raw material, production capacity, and market destination.¹⁵

Plantation product processing industry businesses that have been registered are given a Plantation Product Processing Industry Business Registration Certificate (STD-P) by the Regent. Plantation product processing industry businesses that have the same capacity or exceed the minimum capacity, which is ≥ 5 tons of FFB/hour, are required to have a permit. Permits are given to plantation companies. Plantation crop cultivation businesses with an area of 25 (twenty-five) hectares or more and have a plantation product processing unit whose processing capacity is equal to or exceeds the lowest capacity, which is ≥ 5 tons of FFB/hour, are required to have a Plantation Business License (IUP). Plantation crop cultivation businesses with an area of 25 (twenty-five) hectares or more up to an area of 100,000 hectares and do not have a plantation product processing unit with a minimum capacity of <5 tons of FFB/hour, are required to have a Plantation Business License for Cultivation (IUP-B). Plantation product processing industry businesses with a processing capacity equal to or exceeding the lowest capacity, namely 5 tons of FFB/hour, are required to have a Plantation Business License for Processing (IUP-P). The business of the palm oil processing industry, to obtain an IUP-P, must meet at least 20% (twenty per hundredth) of its raw material needs from its own plantations. Plantation companies that own from IUP or IUP-B, are obliged to build plantations for the surrounding community covering a minimum area of 20% (twenty hundredths) of the total area of plantations cultivated by the company. The development of gardens for the community can be carried out, among others, through credit patterns, grants, or profit sharing.

The construction of gardens for the community is carried out simultaneously with the construction of gardens undertaken by the company. The garden development plan for the community must be known by the Regent. IUP for 1 (one) company is given with the widest limit for oil palm plantations is 100,000 Ha. This broadest limitation does not apply

¹⁴ Irfan Bakhtiar et al., *Our Forests Are Palm Oil: Settlement Ideas for Plantations...*, *op. cit.*, p. 35.

¹⁵ *Ibid.*, p. 36.

to:¹⁶

- a) Plantation companies that hold the majority of shares are Plantation Business Cooperatives.
- b) Plantation companies whose shares are mostly or wholly owned by the State, either the Government, Province, or Regency; or
- c) Plantation companies whose shares are mostly owned by the community in order to *go public*.

IUP, IUP-B, or IUP-P whose cultivation area and/or source of raw materials is located in 1 (one) district area is given by the Regent. The Regent in granting IUP, IUP-B, or IUP-P must pay attention to the macro plan for the development of plantations in the Province. IUP, IUP-B, or IUP-P where the location of the cultivation area and/or the source of raw materials is located across the district area is given by the Governor by paying attention to the recommendation from the Regent. IUP, IUP-B, or IUP-P are valid as long as the company is still carrying out its activities in accordance with technical standards and applicable regulations.

2. Terms and Procedures for Applying for a Plantation Business License (IUP/IUPB/IUP-P)

To obtain an IUP-B, the plantation company submits a written application to the Regent or Governor in accordance with the location of the area with the following requirements:¹⁷

- a. The deed of incorporation of the company and its final amendments.
- b. Taxpayer Identification Number.
- c. Certificate of domicile.
- d. Recommendations for conformity with the Regency Spatial Plan from the Regent (for IUPB ordered by the Governor).
- e. Recommendations for conformity with the provincial plantation development macro plan from the Governor (for IUP-B ordered by the Regent).
- f. The location permit from the Regent is equipped with a map of prospective locations with a scale of 1 : 100,000 or 1 : 50,000.
- g. Technical considerations of land availability from the Forestry Agency (if the area comes from a forest area).
- h. Plantation development work plan.
- i. The results of the Environmental Impact Analysis (AMDAL), or Environmental Management Efforts (UKL) and Environmental Monitoring Efforts (UPL) in accordance with applicable laws and regulations.
- j. The statement of ability has the means, infrastructure and systems to control plant pest organisms (OPT).
- k. The statement of ability to have the facilities, infrastructure and systems to clear land without burning and fire control.
- l. Statement of willingness to build a garden for the community that is equipped with a work plan; and
- m. Statement of willingness to enter into partnerships.

To obtain an IUP-P, the plantation company submits a written application to the Regent in accordance with the location of the area with the following requirements:¹⁸

¹⁶ *Ibid.*, p. 37.

¹⁷ Results of an interview with Mr. Idrus as Secretary of the Kampar Regency Plantation Office, on August 24, 2024, at 10.30 WIB

¹⁸ Results of an interview with Mr. Idrus as Secretary of the Kampar Regency Plantation Office, on August 24, 2024, at 10.30 WIB

- a. The deed of incorporation of the company and its final amendments.
- b. Taxpayer Identification Number.
- c. Certificate of domicile.
- d. Recommendations for conformity with the Regency Spatial Plan from the Regent (for IUPB ordered by the Governor).
- e. Recommendations for conformity with the Provincial Plantation Development Macro Plan from the Governor (for IUP-B ordered by the Regent).
- f. The location permit from the Regent is equipped with a map of prospective locations with a scale of 1 : 100,0000 or 1 : 50,000.
- g. Location recommendations from the local government of the location of the processing unit.
- h. The guarantee of raw material supply is known by the Regent.
- i. Work plan for the construction of plantation product processing units.
- j. The results of the Environmental Impact Analysis (EIA), or Environmental Management Efforts (UKL) and Environmental Monitoring Efforts (UPL) are in accordance with the applicable laws and regulations.

The Regent within a maximum period of 30 (thirty) working days from the date of receipt of the application must provide an answer to postpone, reject or accept. If within 30 (thirty) working days the Regent or Governor has not given an answer, then the application is considered complete. Applications that are received or considered complete are issued IUP, IUP-B or IUPP. The application is postponed if after the document examination there are still shortcomings that must be met. The postponement is notified in writing to the applicant with the reason for the postponement.¹⁹

If within a maximum period of 30 (thirty) working days from the receipt of the notice of postponement) the applicant has not been able to complete the lack of requirements, then the application is considered withdrawn. The application is rejected if after checking the documents it turns out that the requirements are not correct, the efforts to be carried out are contrary to public order and/or macro planning for plantation development. The refusal is notified in writing to the applicant accompanied by the reason for the refusal.²⁰

3. Sequence and Requirements for Completeness of Issuance of Business Licenses in the Plantation Sector

The issuance of business licenses in the plantation sector must be in accordance with the Provincial Spatial Plan (RTRWP) and/or the Regency Spatial Plan (RTRWK). The Provincial Spatial Plan and/or the Regency Spatial Plan is a Regional Spatial Plan that has been integrated with the ministry in charge of forestry. The issuance of permits must follow the order of issuance of business licenses in the plantation sector. The order of issuance of business licenses in the plantation sector is as follows:²¹

a. Land/Land Backing

Plantation companies that will obtain Land/Land Reserves, Location Permits, IUP/IUP-B/IUPP and HGUs must submit an application to the authorized officials equipped with requirements/complete materials. Reserve land/land whose area is located in 1 (one) Regency area by the Regent. The reserve of land/land whose area is located across districts/cities is given by the Governor.

b. Location Permit

Location permits whose area is located in 1 (one) district area are given by the Regent.

¹⁹ Prayudi Atmosudirjo, 1983, *State Administrative Law*, Ghalia Indonesia, Jakarta, p. 48

²⁰ *Ibid.*, p. 49.

²¹ Results of an interview with Mr. Idrus as Secretary of the Kampar Regency Plantation Office, on August 24, 2024, at 10.30 WIB

- Location permits whose area is located across districts/cities are given by the Governor.
- c. Environmental Documents (AMDAL and/or UKL/UPL)
AMDAL and/or UKL/UPL documents that have been discussed and ratified by the Provincial and/or Regency EIA Assessment Commission in accordance with their authority (Law No. 32 of 2009 concerning Environmental Protection and Management and Government Regulation No. 27 of 2012 concerning Environmental Permits) are a requirement for the issuance of an Environmental Feasibility Decree (SKKL) by the Governor and/or Regent in accordance with their authority. The SKKL is issued at the same time as the issuance of an Environmental Permit by the Governor and/or Regent in accordance with his authority, to then be submitted to the oil palm plantation company.
 - d. Recommendations
Recommendations are given by the Governor for Recommendations for Conformity with the Plantation Development Macro Plan, and by the Directorate General of Plantations for Technical Recommendations for companies that conduct Domestic Investment/Foreign Investment.
 - e. IUP/IUP-B/IUP-P
IUP, IUP-B and IUP-P whose cultivation area and/or source of raw materials are located in 1 (one) district area are given by the Regent by paying attention to the provincial plantation development macro plan. IUP, IUP-B and IUP-P whose cultivation area and/or source of raw materials are located across districts/cities are given by the Governor by paying attention to the recommendations from the Regent related to the spatial plan of the district area.
 - f. Right to Use Business (HGU)
HGU for land area up to 200 (two hundred) hectares is granted a decision letter of rights by the Head of the Regional Office of the Provincial National Land Agency. HGU, for land areas above 200 (two hundred) hectares, the issuance of a decision on its rights by the Head of BPN. To obtain HGU, the following application support is required:
 - 1) Submit a letter of application for HGU support to the Head of the Regency Forestry and Plantation Service with the completion of the Location Permit, Plantation Business Technical Recommendation Letter, Proposal Project of the Company concerned and Field Physical Activities.
 - 2) Based on the above, the Regency Forestry and Plantation Service will issue a Letter of Support for HGU Application to the Head of the Regional Office of the Provincial Land Agency.
 - g. Partnership
Plantation companies that have an IUP-B are required to build gardens for the surrounding community must be adjusted to the conditions of the local community, or at least an area of 20% (twenty hundredths) of the total area of the plantation cultivated by the company. The development of gardens for the community can be carried out, among others, through credit patterns, grants or profit sharing. The construction of gardens for the community is carried out simultaneously with the construction of gardens undertaken by the company. The garden development plan for the community must be known by the Regent.
Partnerships can be carried out through processing partnerships and/or business partnerships. Partnerships are carried out based on the principles of mutual benefit and sustainability, mutual respect, mutual responsibility, and mutual strengthening. Partnerships are carried out to empower and increase added value for planters, employees and/or communities around the plantation, as well as to ensure the

sustainability of plantation businesses, Processing partnerships are carried out to ensure the availability of raw materials, the formation of reasonable market prices, and the realization of increased added value to planters as an effort to empower planters. The processing partnership is carried out in writing in the form of an agreement containing rights and obligations, business coaching and development, funding, time period, and dispute resolution signed by both parties with the knowledge of the Regent. The term of the processing partnership agreement as referred to in paragraph (2) is at least 3 (three) years.

h. Objectives, Period and Extension of Business Licensing in the Plantation Sector

1) The land/land reserve is given with the aim of providing opportunities for plantation companies to conduct surveys or research. The land/land reserve is given with the aim of providing opportunities for plantation companies to conduct surveys or research. The land/land reserve is valid for 6 (six) months, and can be extended once for a maximum of 3 (three) months. The Extension of Land Reserve is given in order to provide opportunities for plantation companies to complete surveys/research and proposal projects.

2) The technical recommendations given aim to make it easier for plantation companies to obtain permits in the context of investment.

3) The location permit is given to facilitate plantation companies to obtain the land needed in the context of investment that is valid as a permit for the transfer of rights and to use the land for the purposes of their investment business. Location Permits are granted for a period of time, namely Location Permits covering an area of up to 25 Ha are granted for 1 (one) year, Location Permits covering an area of more than 25 Ha are granted for 3 (three) years, Location Permits can be extended once for 1 (one) year if the land acquisition has reached more than 50% of the land area specified in the location permit, The application for extension is made 3 (three) months before the expiration of the location permit. If the land acquisition cannot be completed within the period of the Location Permit, including the extension time, the land acquisition can no longer be carried out by the holder of the Location Permit and for the land plots that have been obtained, actions are taken, namely being used to implement the capital plan with adjustments regarding the development area, with the provision that if necessary, land acquisition can still be carried out so that land plots that are a unit are obtained field. Then it was released to other eligible companies.

4) The Plantation Business Permit (IUP) is given with the aim of providing guarantees to plantation companies to carry out plantation cultivation businesses and plantation product processing industry businesses. The Plantation Business License for Cultivation (IUP-B) is given with the aim of providing guarantees to plantation companies to carry out plantation cultivation business. The Plantation Business License for Processing (IUP-P) is given with the aim of providing guarantees to plantation companies to conduct plantation product processing industry business. The HGU is given with the aim of obtaining legal certainty of land rights cultivated by plantation companies in accordance with the intended use of their land.

i. Reporting, Coaching and Monitoring

1) Land/Land Reserves, Location Permits, IUP, IUP-B and IUP-P issued and revoked by the Regent are communicated to the Minister, the Governor, the Forestry and Plantation Service, the Regional Development Planning Agency and the Head of the Regional Office of the Provincial National Land Agency.

2) The Regent is obliged to submit a report on the progress of the physical development of the plantation business periodically to the Governor every 6 (six)

- months and submit a copy of the report to the Director General of Plantations.
- 3) The Regent conducts guidance and supervision of plantation companies.
 - 4) Coaching and supervision of plantation companies is carried out periodically every 6 (six) months.
 - 5) The Regent conducts assessment and guidance on the development of plantations and/or the product processing industry at least once every 1 (one) year.
 - 6) The Regent conducts periodic performance assessments of plantation companies every 3 (three) years.
 - 7) In carrying out coaching, supervision and assessment, the Regent can form a team that is given the task of coaching, supervising and assessing plantation companies.
 - 8) The membership of the Team consists of officials from the Regency Government which is chaired by the Head of the Regency Forestry and Plantation Service.
 - 9) The Team Leader can form the Team Secretariat.
 - 10) The Team Fee is charged to the Regency Regional Revenue and Expenditure Budget.
 - 11) Plantation companies that already have an IUP, IUP-B or IUP-P are required to complete:
 - a) Land rights no later than 2 (two) years from the issuance of the IUPB, IUP-P, or IUP.
 - b) Realize the development of plantations and/or processing units in accordance with feasibility studies, technical standards, and applicable regulations.
 - c) Have the facilities, infrastructure and systems to clear land without burning and fire control.
 - d) Clearing land without burning to manage sustainable natural resources.
 - e) Have the facilities, infrastructure and systems to control Plant Pest Organisms (OPT).
 - f) Implementing Environmental Impact Analysis (EIA), or Environmental Management Efforts (UKL) and Environmental Monitoring (UPL) in accordance with applicable laws and regulations
 - g) Grow and empower the local cooperative community; and
 - h) Report the development of plantation business to the Governor or Regent/Mayor according to his authority periodically once every 6 (six) months.
 - 12) The guidance and supervision of plantation businesses is carried out by the Provincial and Regency/City Governments according to the scope of their authority. In the context of coaching and supervision, periodic evaluations are carried out based on reports on the development of plantation businesses.
 - 13) Plantation companies that have received an IUP, IUP-B or IUP-P are assessed and coached in the implementation of plantation development and/or plantation product processing industry submitted at the time of application for plantation business license.
 - 14) Assessment and coaching are carried out based on the work plan for the development of plantations and/or plantation product processing industries submitted at the time of application for plantation business licenses.
 - 15) For plantations and/or plantation product processing industries that have been built, periodic assessment and performance coaching will be carried out every 3 (three) years.
 - 16) Assessment and guidance on the implementation of plantation development and/or plantation product processing industry is carried out in accordance with the Guidelines for Assessment and Development of Plantation Companies.

The use of authority carried out by the government is not only to regulate, but also to determine. The government in seeking a determination aimed at individuals, in this case the government's authority must be exercised based on a clear law so that it can be accounted for, one of the determinations issued by the government is an oil palm plantation permit.

Factors Hindering the Granting of Oil Palm Plantation Permits in Kampar Regency

In general, the obstacles or problems and conditions of licensing in Indonesia are in the enforcement of licensing provisions, procedures often involve ambiguous procedures, the number of licensing provisions scattered in various laws and regulations, and the number of agencies that issue permits, so the licensing process must face confusing and time-consuming procedures.²² Furthermore, the most common problems in obtaining a Plantation Business License (IUP) are:²³

1. The IUP given overlaps with other plantation companies.
2. The licensee is less transparent and the time exceeds the time limit that has been set in accordance with the provisions of the law.
3. Reporting on the granting of IUP and the progress of the implementation of activities to the Provincial Office and the Director General of Plantations has not run optimally.
4. Supervision and guidance by the permitting (Regent/Governor) has not been carried out properly.
5. The permitter has not used a digital map based on the Indonesia Terrain Map (RBI) issued by the Geospatial Information Agency as the basis for granting an IUP.

Not only in general but also technically applications for Plantation Business Permits (IUP) are often hampered at the local level, namely:²⁴

1. The Plant Registration Certificate (STDB) and the Oil Palm Processing Registration Certificate (STDP) have not been issued or issued. By the Regent/Mayor as the Inspector
2. No Joint Plantation Business Permit is issued for Oil Palm Plantation Business Permit above 1000 hectares.
3. It is a violation to obtain raw materials of at least 20% of the own harvest when obtaining a Processing Business Permit (IUP-P).
4. Laws relating to partnerships for sustainable development have not been complied with for at least 10 years in writing.
5. The company has not understood the validity period of each business license while managing plantations in accordance with technical standards and regulations of IUP, IUP-B and IUP-P.
6. According to the Minister of Agriculture, although the requirements No. 98/2013 are not met (Recommendations for the fulfillment of the plantation development plan of the Regent/Governor. Business Licenses, both IUP, IUP-B, and IUP-P, are still issued by the Regent/Governor.
7. The Regent and Governor of the issuance of Business Licenses are not transparent and the deadline (57 days) has passed. A letter of approval from the Regent/Governor in the P-area of his authority is required.
8. Changes in plant area, plant types, and/or processing capacity as well as changes in business diversification require a letter of approval from the Regent/Governor in accordance with their authority.
9. Companies, local governments, and the community have not realized their responsibility

²² Victor Situmorang, 1989, *Fundamentals of State Administration Law*, Bina Aksara, Jakarta, p. 55.

²³ *Ibid.*, p. 56.

²⁴ Y. Sri Putyamoko, 2009, *Licensing Problems and Improvement Efforts*, Grasindo, Yogyakarta, p.

to facilitate the development of at least 20% of community parks outside the IUP, IUP-B, IUP-P areas.

In general, obstacles or obstacles in the licensing system are not only handled by the Central Government but also by Regional Government Agencies. Meanwhile, the obstacles faced by the company in obtaining oil palm plantation permits in Kampar Regency are:²⁵

1. All administrative activities that enter the company and cannot carry out some of the administrative requirements are immediately hampered.
2. There has been no socialization from the government regarding the transfer of the system or *online system presentation* (OSS) to the applicant or company because the company feels that the system is fulfilled and purposeful.
3. *Switching* systems that were originally done in person are now done via the Internet. In addition, when filling out *online*, there are many misunderstandings or multiple interpretations of the data between the applicant and the application provider.
4. Lack of human resources who clearly understand the requirements and objectives of the business licensing system.
5. The lack of regulating Regional Regulations and licensing services should be possible, but the system is inefficient due to lack of openness and licensing services that are ineffective or still cannot be operated due to lack of information. Providing services that are fast, open, cheap, easy, fair and appropriate as well as accountable.

Based on the explanation above, the Regional Government in Kampar Regency in various official statements and reports, generally identified several main factors that hinder the granting of oil palm plantation permits, including:²⁶

1. Complex and changing requirements, frequently updated licensing regulations and the addition of new requirements make the licensing process longer and more complex, this is often a complaint from business actors.
2. Overlapping authority, the existence of several agencies involved in the licensing process often causes overlapping authority and slowing down the process.
3. Land conflicts, land disputes between communities, plantation companies, or other parties are one of the main obstacles, which often involve complex social, cultural, and economic aspects.
4. Environmental considerations, the local government is increasingly paying attention to environmental aspects in every permit grant, this is related to efforts to preserve the environment and prevent negative impacts from oil palm plantations.
5. Pressure from the community, rejection from the community to the development of oil palm plantations, especially if they are considered to threaten the environment or their source of livelihood, is often an obstacle.
6. Limited human resources, budgets, and infrastructure in local governments can hinder the effectiveness of the implementation of supervision and control over plantation activities.
7. Corruption, although not explicitly acknowledged, corrupt practices in the licensing process are often suspected by the public, this can slow down or even stop the licensing process.

Meanwhile, the Regional Government's efforts to overcome these obstacles, the Regional Government in Kampar Regency has made various efforts, including making efforts to simplify licensing procedures and clarify the requirements that must be met, improving coordination between agencies involved in the licensing process, facilitating the resolution of land conflicts through dialogue and mediation, strengthening supervision of the

²⁵ Results of an interview with Mr. Idrus as Secretary of the Kampar Regency Plantation Office, on August 24, 2024, at 10.30 WIB

²⁶ Results of an interview with Mr. Idrus as Secretary of the Kampar Regency Plantation Office, on August 24, 2024, at 10.30 WIB

implementation of plantation activities to ensure compliance to the applicable regulations and to increase the capacity of human resources involved in the licensing process.

CONCLUSIONS AND SUGGESTIONS

Conclusion

Based on the research conducted, conclusions are obtained on the following research questions:

1. The authority of the Regional Government in processing oil palm plantation licensing in Kampar Regency is in terms of issuing location permits, issuing plantation business permits and supervising plantation activities, but at the implementation stage there have been procedural violations in the field of oil palm plantation licensing in Kampar Regency, which indicators can be seen from the stages that are exceeded or not implemented in the licensing process oil palm plantations.
2. The factors that hinder the granting of oil palm plantation permits in Kampar Regency are complex and changing requirements, licensing regulations that are often updated and the addition of new requirements make the licensing process longer and more complex, which is often a complaint from business actors. Overlapping authority, the existence of several agencies involved in the licensing process often causes overlapping authority and slowing down the process. Land conflicts, land disputes between communities, plantation companies, or other parties are one of the main obstacles. Environmental considerations, the local government is increasingly paying attention to environmental aspects in every permit grant, this is related to efforts to preserve the environment and prevent negative impacts from oil palm plantations. Pressure from the community, rejection from the community to the development of oil palm plantations, especially if they are considered to threaten the environment or their source of livelihood, is often an obstacle. Limited human resources, budgets, and infrastructure in the local government can hinder the effectiveness of the implementation of supervision and control over plantation activities. And corrupt practices in the licensing process are often suspected by the public, this can slow down or even stop the licensing process.

Suggestion

Based on the conclusion above, the suggestions that the author can give are as follows:

1. For Regional Governments, they should carry out licensing procedures with business actors/companies in accordance with applicable regulations, by only granting business licenses to business actors/companies that have met the requirements so that all regulations can be implemented properly and fairly and do not have a bad impact on the community.
2. For Oil Palm Plantation Companies, they must meet the requirements so that all regulations can be implemented properly and fairly and do not have a negative impact on the community.

REFERENCE

- Indroharto, 1993, *Efforts to Understand the Law on State Administrative Justice*, Pustaka Harapan, Jakarta
- Presidential Instruction Number 6 of 2019 concerning the National Action Plan for Sustainable Oil Palm Plantations for 2019-2024
- Irfan Bakhtiar et al., 2019, *Our Forests Are Palm Oil: Settlement Ideas for Oil Palm Plantations in Forest Areas*, KEHATI, Jakarta
- Regulation of the Minister of Agriculture Number 98/Permentan/OT.140/9/2013 concerning Guidelines for Plantation Business Licensing

- Philipus M. Hadjon, 1993, *Introduction to Indonesia Administrative Law*, Gajah Mada Press, Yogyakarta
- Philipus M. Hadjon, 1994, *The Normative Function of Administrative Law in Realizing a Clean Government*, Faculty of Law, Airlangga University, Surabaya
- Prayudi Atmosudirjo, 1983, *State Administrative Law*, Ghalia Indonesia, Jakarta
- Ridwan HR, 2003, *State Administrative Law*, UII Press, Yogyakarta
- Rustam Efendi Lubis & Agus Widanarko SP, 2011, *Buku Pintar Kelapa Sawit*, PT. Agro Media Pustaka, Jakarta.
- Salim HS and Erlies Septiana Nurbani, 2013, *Application of Legal Theory to Dissertation and Thesis Research. Print I*, PT RajaGrafindo Persada. Jakarta
- Law Number 39 of 2014 concerning Plantations Law 23 of 2014 concerning Regional Government.
- Victor Situmorang, 1989, *Fundamentals of State Administration Law*, Bina Aksara, Jakarta.
- Y. Sri Putyamoko, 2009, *Problem Licensing and Improvement Efforts*, Grasindo, Yogyakarta.