

Legal Analysis Of Licensing Authority In Space Utilization After The Work Copyright Law

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Abstract. *The enactment of the Job Creation Law has created a lot of discussion about spatial law enforcement. This did not completely stop even after the issuance of Government Regulation (PP) No. 43 of 2021, which regulates the settlement of spatial discrepancies, forest areas, permits, and/or land rights. The spatial planning sector is quite complex when it comes to natural resources and environmental issues. Therefore, there needs to be synergistic collaboration among related parties, especially law enforcement. And there is an increase in the role of the region to provide support related to violations of space utilization that occur. The research used in this journal is normative legal research. There are already regulations that clearly regulate related to space or spatial planning that is still obeyed mainly from urban communities, as well as private parties who will build business locations (such as malls, plazas, and so on), as well as from governments in provinces, districts / cities can take action and carry out regulations that have been regulated. Remembering that the provision, utilization and sustainability of green open space in the future plays a big role in the ecosystem and preservation of nature with environmental aspects and with the renewal of licensing arrangements related to green open space in the perspective of the Spatial Planning Law and the Job Creation Law, it is clarified again and does not lead to the possibility of norm ambiguity or norm conflict.*

Keywords: *Law, Authority, Licensing, Utilization, Job Creation*

INTRODUCTION

The Constitution of the Republic of Indonesia which is the supreme law mandates that the space within the territory of the Unitary State of the Republic of Indonesia which includes land, sea and air as well as natural resource wealth is protected and managed to the greatest extent for the prosperity of the people. This is clearly stated in Article 33 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia (NKRI 1945 Law) which reads:

“The land and water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people”.

Law No. 26/2007 on Spatial Planning is present with the aim of organizing space so as to realize the harmonious use of natural resources and artificial resources, provide protection for spatial functions so that they are not easily converted, and prevent negative impacts due to the use of space itself. "Spatial planning is a system of spatial planning processes, space utilization, and control of space utilization". In Indonesia, there is a hierarchy of planning

products based on Law No. 26 of 2007, namely Planning at the national level in the form of the National Spatial Plan (RTRWN), National Strategic Area Spatial Plan (RTR KSN), Provincial Spatial Plan (RTRWP) and Regency / City Spatial Plan (RTRW Kab/kota) and Detailed Spatial Plan and Zoning Regulations (RDTR Kabupaten/Kota). All types of planning products in Indonesia have a period of 20 (twenty) years with a review every 5 (years). The National Spatial Plan will later become a reference for provincial, district / city spatial plans to detailed plans.

"Space utilization is an effort to realize the spatial structure and spatial pattern in accordance with the spatial plan through the preparation and implementation of programs and their financing". while "control of space utilization is an effort to realize spatial order". The process of controlling space utilization is carried out through the provision of conformity of space utilization activities, the provision of incentives and disincentives and the imposition of sanctions. Control of space utilization is important considering that in its implementation, space utilization permits are granted not always in line with the spatial plan that has been determined. The enactment of Law Number 11 of 2020 on Job Creation, which was established with the spirit of accelerating investment and development implementation, also has an impact on the implementation of spatial planning in Indonesia. Previously, policies related to spatial planning that were considered multi-layered and the lengthy bureaucratic process of space utilization licensing were considered as several inhibiting factors in the implementation of development, especially in the context of accelerating National Strategic Projects. With the enactment of the Job Creation Law, it is hoped that it can be trimmed down to the policies of laws and regulations governing the implementation of development so as to provide certainty and convenience for business actors to obtain the suitability of space utilization activities.

Local governments are faced with a situation where they must understand the laws and regulations resulting from judicial review. Without a good understanding of the apparatus, it is certain that the implementation of regional autonomy in regencies/cities in Indonesia will lose its meaning. This is a legal problem that often occurs where laws and regulations are not in accordance with the legal reality of the community so that they lose their social value and cannot be implemented. Not to mention Law Number 11 of 2020 on Job Creation (Ciptaker Law) which places the authority of local governments under the president in implementing or forming Law regulations. Now the president takes over the authority that previously belonged to the regional government. The Job Creation Law adds one rule about the relationship between the central and regional governments. This article regulates the authority of regional

governments only as part of the president's authority. With the enactment of this Law, the authority of ministers, heads of institutions, or local governments that have been stipulated in the Law to implement or form laws and regulations must be interpreted as the implementation of the President's authority.

In addition, the Job Creation Law cuts down the authority of local governments in spatial planning. Under the Job Creation Law, the authority for spatial planning is vested in the central government. "The implementation of spatial planning is carried out by the central government," reads Article 9 paragraph 1 of the Job Creation Law. Then, in Article 9 paragraph 2, it is written that further provisions regarding the duties and responsibilities for organizing spatial planning are regulated by government regulations. This provision changes two paragraphs in Article 9 of Law Number 26 of 2007 concerning Spatial Planning. In the old law, it was stated that the implementation of spatial planning was carried out by a minister. The duties and responsibilities of the minister in spatial planning include three things. Namely regulation, guidance, and supervision of spatial planning, implementation of national spatial planning and coordination of spatial planning across sectors, across regions, and across stakeholders.

Law No. 26/2007 on Spatial Planning is one of the policies revised in the Job Creation Law. What is highlighted in the amendment of the Spatial Planning Law in Law Number 11 of 2020 concerning Job Creation is the reduction of spatial planning affairs in the regions and adjustments to the licensing mechanism in the regions. In article 14, the spatial plans for provincial strategic areas and district/city strategic areas previously listed in Law 26 of 2007 are removed from the nomenclature of the Job Creation Law. However, the Spatial Plan for Islands and National Strategic Areas remains along with the District/City Detailed Spatial Plan. The trimming of spatial utilization regulations is also reflected in the mandate to integrate marine spatial plans in the Spatial Plan. At the Provincial level, the Coastal Zone and Small Island Zoning Plan (RZWP3K) must be integrated into the Provincial Spatial Plan, as stated in Article 43 of the Job Creation Law.

The implementation of space utilization control also underwent reforms after the Job Creation Law, where the nomenclature of space utilization permits was adjusted to the provisions of the Conformity of Space Utilization Activities (KKPR). KKPR issued by the Central Government is a form of re-centralization of space utilization licensing affairs, where previously licensing provisions were regulated according to their respective authorities by the Government and Regional Governments. National Strategic Projects (PSN) and also changes in strategic national policies that are used as exceptions to continue the implementation of space

utilization, even though they are not yet included in the spatial plan that has been determined. More technical guidelines related to spatial affairs are further elaborated in Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning which replaces the same Government Regulation Number 15 of 2010. Furthermore, the Regulation becomes the basis of technical guidelines for the implementation of spatial planning in the regions, namely derivative legislation from the Job Creation Law and Government Regulation Number 21 of 2021.

In the Job Creation Law, the central government is authorized to establish norms, standards, procedures, and criteria (NSPK) for the implementation of spatial planning. Spatial planning by local governments must refer to the NSPK that has been made by the central government. Articles 10 and 11 of the Spatial Planning Law that explain the authority of provincial and district/city governments have also changed drastically from the previous seven articles. The old law stipulated that local governments had the authority over regional spatial planning, strategic area spatial planning and inter-district/city or inter-provincial spatial planning.

Local governments are also authorized to determine strategic areas, spatial planning of strategic areas, spatial utilization of strategic areas and control of spatial utilization of strategic areas. However, the Job Creation Law states that the authority of local governments in accordance with the NSPK of the central government only includes three things. First, regulation, guidance, and supervision of the implementation of spatial planning in provincial, district / city areas. Second, the implementation of provincial spatial planning. Third, interprovincial spatial planning cooperation and facilitation of spatial planning cooperation between districts / cities. While in article 18 paragraph 1 it is mentioned, the establishment of provincial or district / city spatial plans and detailed spatial plans, must first obtain substantial approval from the central government. Then, article 8 paragraph 1 which mentions the authority of the central government in spatial planning includes regulation, guidance, supervision of the implementation of national, provincial and district / city spatial planning, as well as spatial planning of national strategic areas.

The enactment of the Job Creation Law has created a lot of discussion about spatial law enforcement. This did not completely stop even after the issuance of Government Regulation (PP) No. 43 of 2021, which regulates the settlement of spatial discrepancies, forest areas, permits, and/or land rights. The spatial planning sector is quite complex when it comes to natural resources and environmental issues. Therefore, there needs to be synergistic

collaboration among related parties, especially law enforcement. And there is an increase in the role of the region to provide support related to violations of space utilization that occur.

The implementation of PP No. 43 of 2021 is related to the handling of delays in spatial planning law. there are four parts regulated in this PP. First, regarding the settlement of regional boundaries. Second, the settlement of discrepancies between provincial spatial plans, district / city spatial plans, forest areas, permits, concessions, land rights, and / or management rights. Third, resolution of discrepancies between the Marine Spatial Plan, Zoning Plan for Certain National Strategy Areas, Zoning Plan for Interregional Areas, and/or Zoning Plan for Coastal Areas and Small Islands with licenses related to activities that utilize marine space. Fourth, regarding institutions and governance.

Administrative sanctions for violations, as stipulated in Law No. 11 of 2020 and Law No. 26 of 2007, aim to provide a deterrent effect for violators of spatial planning. With the hope of orderly utilization of spatial planning, this new regulation emphasizes the imposition of administrative sanctions. If in fact administrative sanctions do not get the support of the local government or the violating party is not in good faith, criminal sanctions will be taken. law enforcement in Law No. 26 of 2007 jo. Law No. 11 of 2020 uses the concept of external cumulation, which means that for one act two sanctions can be imposed, both administrative and criminal sanctions. In both regulations it is not explained which sanction is imposed first, which means that the application of external cumulation does not use the concept, principle, *ultimum remedium*. This also means that administrative sanctions and criminal sanctions can be applied simultaneously.

In 2019, the Ministry of Agrarian Affairs and Spatial Planning noted that based on the results of the audit of controlling violations of space utilization carried out from 2015-2018, there were 6,621 locations in Indonesia that indicated violations and the most distribution was in the Java Island region totaling 5,286 locations. Not a few backgrounds of these violations are due to space utilization permits. The difficult and complicated process of obtaining permits is a source of violation. In the findings of the spatial audit conducted by the Ministry of ATR / BPN, it is not uncommon to find that business activities are carried out without holding the required utilization permit in advance, or holding a space utilization permit but obtained not in accordance with the procedure, or utilizing space not in accordance with the requirements contained in the space utilization permit listed. The above situation cannot be allowed considering that Indonesia is a state of law, all actions and actions of the community are regulated through applicable written law. In addition, sometimes the disharmony between Law No. 26 of 2007 concerning Spatial Planning,

Law No. 30 of 2014 concerning Government Administration and other sector laws is the cause of the difficulty in processing permits to obtain space.

THEORETICAL STUDY

The hierarchy of legal norms can also be called the level of legal norms (stufentheorie). Hans Kelsen argues that legal norms are tiered and layered in a hierarchy (order), in the sense that a lower norm applies, originates, and is based on a higher norm, a higher norm applies, originates, and is based on a higher norm, and so on until a norm that cannot be traced further and is hypothetical and fictitious, namely the basic norm (grundnorm). According to Jimly, the relationship between norms that regulate the actions of other norms and other norms is called the relationship of super and sub-ordination in a spatial context³¹. The norm that determines the making of other norms is superior, while the norm that is made is inferior. This makes the situation where the making determined by the higher norm becomes the reason for the validity of the entire legal system that forms a unity..

Hans Naviasky (also a student of Hans Kelsen) developed theorie vom stufenbau der rechtsordnung. Stufenbautheorie is built as a theory of hierarchy or norm classification. According to Stufenbautheorie, the hierarchy of the norm system is grouped into 4 (four) groups of legal norms including state fundamentals (staatsfundamentalnorm), basic rules of the state / basic rules of the state (staatsgrundgesetz), formal law norms (formell gesetz), and implementing rules & autonomous rules (verordnung and autonome satzung).

The fundamental norm of the state (staatsfundamentalnorm) is the highest norm in a state or called the (Grundnorm) which is Pre-Supposed, which is determined in advance by the community in a state and is the norm on which the legal norms below depend. Because this norm is the highest, it is not formed by higher norms. In Indonesia, the fundamental norm is Pancasila. Pancasila is the highest norm in the legal system in Indonesia. As the highest norm, the group of legal norms, namely the basic rules of the state / the main rules of the state (staatsgrundgesetz), the norms of the formal Law (formell gesetz), as well as the implementing rules and autonomous rules (verordnung and autonome satzung) must not conflict with Pancasila.

The basic rules of the state (staatsgrundgesetz) are one level below the fundamental norms of the state. It is said to be the norm of the basic rules of the state because this group of norms contains rules that are still basic and general in nature. According to Hans Nawiasky, a basic rule of state/principal rule of state can be set forth in a state document called

staatsverfassung, or it can also be set forth in several scattered state documents called staatsgrundgesetz²⁰. The basic rules of state in Indonesia are not only contained in the 1945 Constitution, but are also contained in the MPR Decree and the unwritten basic law known as the Constitutional Convention.

RESEARCH METHODS

The research used in this thesis is normative legal research. Normative legal research is research that examines the laws and regulations that apply to a legal problem. Normative research with the object of study of laws and regulations documents by studying and examining library legal materials or can be called a study of legal science. Normative legal research tends to place law as a perspective discipline that is only seen in a normative perspective whose research themes include several things such as legal principles, legal systematics, vertical and horizontal synchronization, legal comparisons and legal history. It is called normative legal research because it contains the object of study in the form of research on legal principles and horizontal synchronization, namely there is a study of several articles in the Law regarding licensing authority in space utilization after the Job Creation Law. The author conducts qualitative research using the library research method, which is one type of research approach, namely normative / juridical normative.

In conducting research, the author uses a method by researching the principles of written law, and then the author conducts research on legal systematics on a legal understanding both subjectively law, obligations, and legal events in the law. Related to the research conducted by the author in the type of normative research, the research approach carried out by the author is with a statute approach, and a conceptual approach, as according to Peter Marzuki, approaches in normative legal research include the following:

a. Case approach

The statutory approach must certainly be carried out in normative legal research, because the object of study is to use the rule of law as the main theme in a study. The Statute Approach is an approach that is carried out by examining laws or regulations related to the problem being resolved.

b. Statute Approach

c. Historical Approach

d. Comparative Approach

e. Conceptual Approach

It is a type of approach in legal research that provides an analytical point of view of solving problems related to the regulation of the relationship of authority between the central and regional governments in spatial planning after the changes that have been stipulated in the Job Creation Law. In this research, the law is seen from the views and doctrines that have developed in legal science. By exploring aspects of the legal concepts behind it, or it can even be seen from the values contained in a regulation in relation to the concepts used whether it is in accordance with the spirit contained in the underlying legal concepts. According to Peter Mahmud Marzuki "legal research does not recognize the existence of data, to solve legal issues and at the same time perceptions of what should be, research sources are needed". Legal research sources can be divided into research sources in the form of primary legal materials and secondary legal materials. The source of legal material carried out by the author is to use secondary data, secondary data obtained based on literature studies or literature studies consisting of legal materials concerning problem issues.

In analyzing the collected legal material, it is determined by qualifying it by determining the facts of a law based on the formulation of the problem and then analyzing it through one of the methods, namely the method of interpretation of legal rules related to the principles of written law with legal facts to determine the formulation of the problem, and accompanied by a critical description based on legal theories arranged systematically and regularly, and describing the events of legal sanctions.

All data collected will be processed through the process of analysis, reduction (selection of relevant data and elimination of unnecessary data), classification, interpretation (development of correlation between laws and regulations), and closed with conclusions. Data analysis activities are carried out using descriptive qualitative methods through a statutory approach, analytical approach, and normative-comparative approach. The research conclusions are compiled using a systematic interpretation method, namely by interpreting one legislative regulation related to the release of prisoners by law and then building correlations with other legal products, so that the data collected can be analyzed using qualitative methods and then drawn conclusions.

RESULTS AND DISCUSSION

Law Number 11 of 2020 on Job Creation (UUCK), has changed the regime and does not recognize space utilization permits. In UUCK, space utilization permits are replaced with Conformity of Space Utilization Activities (KKPR). Referring to Article 175 number 1 of Law Number 11 of 2020 concerning Job Creation which amends the provisions of Article 1 number 19 of Law Number 30 of 2014 concerning Government Administration, it states that "a permit is a decision of an authorized government official as a form of approval of an application from a citizen in accordance with the provisions of laws and regulations".

It is necessary to explore what is meant by the decision of a government official. The purpose of the decision here is a Government Administration Decision, which is also called a State Administrative Decision (KTUN), which is a written decision issued by a Government Agency and/or Official in the administration of government. Meanwhile, government officials are related to authority, namely the power of the Agency and/or Government Officials or other state administrators to be able to act in the realm of public law. Thus, it can be said that a permit is a decision of a government official or also called a State Administrative Decision (KTUN) / *beschikking*. Indonesia is a state of law which certainly has a division of powers in the government of a country needed to prevent the occurrence of absolute or absolute power as it applies in the monarchy or royal system of government. According to the opinion of Miriam Budiardjo in the Basics of Political Science, power is a person's ability to influence others to take the actions he wants or orders. Regarding absolute power, Lord Acton said, "Humans who have power tend to abuse it, but humans who have unlimited power must abuse it. The division of power is ultimately necessary to prevent absolute power from occurring.

That way, the government of a country cannot necessarily carry out its own policies. Montesquieu did not include the federative power but made it one of the executive powers. The state power according to Montesquieu consists of: Legislative, which is the power to make or form laws. Executive, which is the power to implement the law. Judiciary, which is the power to defend the law, including prosecuting any violations of the law. In Montesquieu's elaboration of state power, the judicial power stands alone, without intervention from other powers when carrying out its duties as a judge of violations of the law. The concept of the division of state power by Montesquieu is known as *Trias Politica* which is applied by many governments in the world, including in Indonesia. According to Article 17 number 1, which amends Article 1 number 32 of the UUPR, the suitability of space utilization activities is the conformity between space utilization activity plans and spatial plans. Conformity of space utilization activities can be in the form of a decision approved or rejected with reasons for rejection. Thus, the legal

form of KKPR is also a decision or also known as *beschikking*. Basically, the legal form of a permit or KKPR is the same as a decision / *beschikking*. However, of course the regimes of permits and KKPR are different, where KKPR is essentially a decision in the form of a document stating the suitability between the plan for space utilization activities and the spatial plan. Whereas, in a permit, the form of approval is not narrowed down to only a document that states conformity between the utilization and spatial plan.

The term *Beschikking* is very old and is used in many different senses. However, in the discussion, the term *Beschikking* is used in various meanings. According to H. Van Wijk/Willem Konijnenbelt, a decree is a government decision for concrete and individual matters (not for the public) and has long been used as the main juridical instrument of government. There are several elements in *beschikking*, including: (1) a unilateral statement of will, (2) issued by a government organ, (3) based on public legal authority, (4) aimed at specific or concrete and individual matters, (5) with the intention of causing legal consequences in the field of administration.

KKPR implementation consists of (1) KKPR for business activities, (2) KKPR for non-business activities and (3) KKPR for national strategic activities. Furthermore, in article 1 numbers 17-19 of Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning stipulates: "Confirmation of Conformity of Spatial Utilization Activities is a document stating conformity between Spatial Utilization activity plans Approval of Conformity of Spatial Utilization Activities is a document stating conformity between Spatial Utilization activity plans with RTR other than RDTR Recommendation of Conformity of Spatial Utilization Activities is a document stating conformity of activity plans. Space Utilization based on national policies that are strategic and have not been regulated in the RTR by considering the principles and objectives of Spatial Planning." By reading the article above, it can be concluded that the types of space utilization permits and KKPR are much different. In a space utilization permit, for example in a Building Permit, the conformity between the plan for space utilization activities and the spatial plan is only a prerequisite for issuing a Building Permit. Meanwhile, in the KKPR regime, the prerequisite for conformity between the plan for space utilization activities and the spatial plan has become a legal form in the form of a separate decision / administrative decision, namely in the form of an electronic decision as contained in Article 175 number 1 of Law Number 11 of 2020 concerning Job Creation which amends the provisions of Article 1 number 7 of Law Number 30 of 2014 concerning Government Administration.

Article 35 of Law Number 11 of 2020 concerning Job Creation stipulates that space utilization control is carried out through (a) provisions on the Conformity of Space Utilization Activities, (b) Provision of incentives and disincentives; and (c) imposition of sanctions. Furthermore, Article 148 of Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning stipulates that space utilization control is carried out through:

- a. Assessment of the implementation of Conformity of Space Utilization Activities and self-declaration of MSE actors
- b. Assessment of RTR realization
- c. Providing incentives and disincentives
- d. Imposition of sanctions
- e. Settlement of spatial planning disputes

Based on Mas Achmad Santosa's opinion, the Job Creation Law regulates a wide range of subjects. In the Job Creation Law there are 11 clusters such as simplification of licensing, investment requirements, employment, ease of doing business, empowerment and protection of MSMEs, research and innovation support, government administration, imposition of sanctions, land acquisition, ease of investment and government projects, and Special Economic Zones. Not only in Indonesia, there are several countries related to the government system regarding job creation such as in. The United States has a single subject rule that requires all laws to regulate only one topic. The aim is to prevent log-rolling, namely legislators exchanging favors by supporting laws so that other legislators support other laws, eliminate the smuggling of articles for certain interests, and to maintain public and parliamentary transparency. The UK has an omnibus law to regulate and protect citizens from the impact of Brexit under the name Withdrawal of the United Kingdom from the European Union (Consequential Provisions) Act 2020. There are 13 clusters regulated in the omnibus law in the UK, namely health services, industry, electricity and greenhouse gases, Student Support amendments, tax, financial services, insurance financial services, transportation (ports, bus services, labor, extradition, immigration). Although it has many clusters such as the Job Creation Law, the UK version of the omnibus law only focuses on regulating Brexit issues. In this omnibus law, there are several rules that have been amended several times, such as taxation and labor.

KKPR implementation assessment is carried out to ensure compliance with the implementation of KKPR provisions and fulfillment of KKPR acquisition procedures. Compliance assessment of KKPR implementation is carried out during development and post-development. The results of the assessment of the provisions in the KKPR document are set out in textual and spatial form. In addition, violations of KKPR can be subject to criminal sanctions and administrative sanctions. In addition, Article 97 of Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning stipulates that the implementation of space utilization is carried out through the implementation of KKPR and the synchronization of space utilization programs. Article 98 of Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning stipulates that the implementation of KKPR consists of the followings :

- (a) KKPR for business activities
- (b) KKPR for non-business activities and
- (c) KKPR for national strategic activities.

By looking at the provisions in the UUCK and its derivative regulations, it can be seen that KKPR is not only a control instrument, but also a space utilization instrument. Meanwhile, in the previous regime, namely the space utilization permit, it was regulated that the space utilization permit was only an instrument of controlling space utilization. However, both have in common that if there is a violation of the space utilization permit and KKPR, administrative and criminal sanctions can be imposed.

The government has issued regulations related to spatial planning in Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning. In this regulation, the Approval of Conformity of Space Utilization Activities (PKKPR) is set as a new reference in business licensing. Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning is an implementing regulation of the Ciptaker Law. The purpose of organizing spatial planning in PP 21 of 2021 is to integrate various interests across sectors, across regions, across stakeholders in the preparation of spatial plans, so that there is harmony between human life and the environment. Director General of Spatial Planning of the Ministry of ATR / BPN Abdul Kamarzuki said, PKKPR replaces location permits and various space utilization permits (IPR) in building and managing land which were originally the authority of the local government (Pemda).

This PKKPR serves as one of the basic licenses that need to be obtained before business actors can continue the business licensing process. In accordance with the mandate of the Ciptaker Law, the ease of licensing is intended for various types of business actors including MSMEs. In PP 21 of 2021 it is explained that in the process of issuing PKKPR it must be in accordance with the Spatial Plan (RTR), one of the breakthroughs is PKKPR as the basis for licensing whose position is upstream until now the RTR is the sole reference in the field. the establishment of Law Number 11 of 2020 concerning Job Creation which amends, deletes and/or stipulates new regulations from several provisions that have been regulated in Law Number 26 of 2007 concerning Spatial Planning. Including several provisions related to the authority of the Regency / City Regional Government in implementing spatial planning. The Job Creation Law has abolished the authority of the Regency / City Regional Government in the implementation of district / city strategic spatial planning, the district / city government no longer has the authority in the spatial planning of district / city strategic areas. Therefore, the provisions of the existing authority for spatial planning of strategic areas in the regions must also be evaluated and synchronized with the new authority after the birth of the Job Creation Law. The birth of Law Number 11 of 2020 concerning Job Creation. The Job Creation Law is to create a quality business and investment climate for business actors, including MSMEs and foreign investors, as well as simplify the business and investment licensing process. There are 10 (ten) strategic policy areas regulated in the Job Creation Law, including "efforts to improve the investment ecosystem and business activities".

One of the basic efforts to improve the investment ecosystem and business activities is by "simplifying the basic requirements for business licensing". Business licensing is the legality given to business actors to start and run their business and/or activities. One form of simplification of the basic requirements for business licensing is through the issuance of the Conformity of Space Utilization Activities (KKPR) as a substitute for the Space Utilization Permit (IPR) which was originally regulated in the Spatial Planning Law. In the context of simplifying the basic requirements of business licensing and to provide convenience for business actors in obtaining KKPR, the Job Creation Law amends, deletes and/or stipulates new regulations from the provisions stipulated in Law Number 26 of 2007 concerning Spatial Planning.

Government Regulation Number 21 of 2021 concerning the Implementation of Spatial Planning, provides regulatory changes to spatial planning materials within the scope of local government. Changes in the authority of the Regional Government from the former authority to grant Location Permits / Space Utilization Permits (IPR), now the Regional Government has

the authority to grant Conformity of Space Utilization Activities (KKPR) through confirmation or approval. Furthermore, there is a change in concept and nomenclature towards the adjustment of simplifying the basic requirements of licensing to the Conformity of Space Utilization Activities. So what was originally a Space Utilization Permit (IPR) becomes a Conformity of Space Utilization Activities (KKPR). The types of KKPR according to the Regulation of the Minister of ATRBPN No. 13 of 2021 can be KKPR for business activities, KKPR for non-business activities, and KKPR for national strategic activities. This KKPR is given as a conformity of the activity and/or business location plan with the Detailed Spatial Plan. For Local Governments that have compiled and provided a Detailed Spatial Plan, the Conformity of Space Utilization Activities is given through confirmation. For Local Governments that have not prepared and provided a Detailed Spatial Plan (RDTR), the Conformity of Space Utilization Activities is given through approval, with tiered and complementary principles. PP no. 21 of 2021 also states that the Regency / City RTR is reviewed 1 (one) time every 5 (five) year period. Review of the RTR can be carried out if there are changes in the strategic environment in the form of:

- 1) Large-scale natural disasters stipulated by laws and regulations
- 2) State territorial boundaries set by law
- 3) Changes in regional territorial boundaries stipulated by law;
- 4) Changes in national policies that are strategic in nature.

In addition to changes in several authorities owned by the district / city government after the issuance of the Job Creation Law and PP Number. 21 of 2021, it is urgent for the district / city government to make adjustments in legal products in the form of regional regulations that have been used as the basis for implementing spatial planning in the regions so far. This is important, because some legal products in the form of regional regulations that were in effect before the birth of the Job Creation Law are still subject to Law Number. 32 Year 2004 on Regional Government (Old Regional Government Law) and also still subject to the Spatial Planning Law before it was amended by the Job Creation Law.

CONCLUSIONS AND SUGGESTIONS

There are already regulations that clearly regulate spatial planning to be obeyed, especially from urban communities, as well as private parties who will build business locations (such as malls, plazas, and so on), as well as from governments in provinces, districts / cities can take action and carry out regulations that have been regulated. Remembering that the provision,

utilization and sustainability of green open space in the future plays a major role in the ecosystem and preservation of nature with environmental aspects and with the renewal of licensing arrangements related to green open space in the perspective of the Spatial Planning Law and the Job Creation Law, it is clarified again and does not lead to the possibility of norm ambiguity or norm conflict.

The concept of authority to issue and cancel KKPR in the new era of Law Number 11 of 2020 concerning Job Creation has now been amended to Law Number 6 of 2023 concerning Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, is absolutely the authority of the Central Government and can be delegated to the Governor/Mayor/Regent. In Law Number 30 of 2014 concerning Government Administration, it is stated that delegation is a delegation of authority from a higher Government Agency/Official to a lower Government Agency/Official. However, Law Number 23 of 2014 concerning Regional Government does not mention that the relationship between the center and the regions is a relationship between higher / lower Government Agencies / Officials, it regulates that the relationship between the center and the regions is regional autonomy and the Central Government provides guidance in order to create synergy between the Central Government and Regional Governments. This means that there is a need for norms related to the disharmony of laws and regulations governing central and regional relations if you want to make provisions related to delegation of authority.

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Legislation

Undang-Undang Republik Indonesia Nomor 26 Tahun 2007 tentang Penataan Ruang

Undang-Undang Republik Indonesia Nomor 11 Tahun 2020 tentang Cipta Kerja Peraturan Pemerintah Nomor 21 Tahun 2021 tentang Penyelenggaraan Penataan Ruang.