



Good Corporate Governance (GCG) Principles in Persero

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Abstract

This study aims to examine Good Corporate Governance (GCG) which is a guideline for good corporate governance, while the contents of this guideline include the principles of transparency, independence, accountability, responsibility, and fairness. The application of the principles that exist in a company is very important in the implementation of the management and supervision of State-Owned Enterprises, especially in state-owned enterprises, and this is confirmed in the Decree of the Minister of State-Owned Enterprises Number 117/M-MBU/2002. The problem that will be discussed in this research is how to implement the principles of Good Corporate Governance in the company. The research method used is a normative research method with a statute approach and analyzed using content analysis.

Keywords: *Good Corporate Governance (GCG); Persero*

Introduction

The term GCG first appeared around 1970 in the United States, this was after several corporate scandals and corrupt practices within the company. Some acts of abuse of good corporate governance committed by company organs can not only mislead shareholders in the prospects and performance of the company, but also other parties such as creditors, employees, workers, and the public. [1] Good Corporate Governance (GCG) is not something new in corporate management, but in Indonesia GCG is a new phenomenon in corporate governance, and this has emerged since the post-crisis 1997. The beginning of GCG in Indonesia was introduced by the Government of Indonesia and the International Monetary Fund in the context of post-crisis economy recovery. GCG is a concept regarding healthy corporate governance, this concept is expected to protect shareholders and creditors in order to get their investment back. [2]

A well-managed company is a company that has a long-term strategic plan, therefore it is necessary to pay attention to the interests of various related parties, either directly or indirectly, internally and externally. The existence of GCG in the company automatically management of the company must meet business standards and meet the management principles that have been set. The implementation of corporate governance in Indonesia consists of 3 (three) activities, firstly establishing national policies; secondly improving the regulatory framework; third, building private sector initiatives. [3] National policy formulation was marked by the establishment of the National Corporate Governance Committee (KNKCG). The formation of the national policy committee was based on the Decree of the Coordinating Minister for Economic Affairs Number: KEP/31/M.EKUIIN/08/1999, and the first time issued Good Corporate Governance guidelines. In relation to the implementation of GCG in the business world, the

government has initiated the need for GCG in the public sector. Starting from the development of GCG in November 2004, the Government with the Decree of the Coordinating Minister for Economic Affairs Number: KEP/49/M.EKON/11/2004 has approved the establishment of the KNKCG, which consists of a Public Sub-Committee and a Corporate Sub-Committee. One of the important tasks of the Corporate Sub-Committee is to create guidelines for the business world in implementing GCG. The GCG Guidelines are guidelines for companies in developing, implementing and communicating GCG practices to stakeholders. The general guidelines for GCG are not laws and regulations but contain very basic principles that form the basis for companies that aim to maintain long-term business continuity in the corridors of applicable business ethics. [4]

One company that already has GCG guidelines is a State-Owned Enterprise, this happens because of the phenomenon of many acts of collusion, corruption, and nepotism within the company, abuse of power and not paying attention to the interests of the company, so it is necessary to take an initiative that needs a good governance. good corporate governance. The reform of company management through the implementation of GCG principles in SOEs was confirmed by the issuance of SOE Decree No. Kep.-103/MBU/2002 Regarding the Establishment of the Audit Committee for State-Owned Enterprises dated June 4, 2002, a follow-up to the establishment of the Audit Committee with the enactment of the Decree of the Minister of State-owned enterprises Number KEP-117/M-MBU/2002 dated August 1, 2002 concerning the Implementation of GCG Practices on State-Owned Enterprises, and this Ministerial Decree revokes the Decree of the State Minister for Investment and Development of BUMN Number Kep-23/M-PM.PBUMN/2000 dated May 31, 2002.[5]

State-Owned Enterprises as a pillar of the Indonesian economy must be the pioneers in implementing GCG principles, this is because SOEs have an important role in the recovery of the national economy in the business world. This is in accordance with the contents of Article 33 paragraph (4) of the 1945 Constitution. The principles of GCG listed in the Decree of the Minister of SOEs Number 117/2002 consist of 5 (five) principles, namely transparency, independence, accountability, responsibility, and fairness. . In carrying out their duties, each organ must comply with the company's articles of association and laws and regulations and must implement the principles of professionalism (GCG), this is stated in Article 5 and Article 6 of Law Number 19 of 2003 concerning BUMN, and its implementation is based on Article 2 paragraph (1) Kep-Men No.117/2002 which states that "SOEs are required to implement GCG consistently and/or make GCG an operational basis. It is clear that in this case the support and commitment of all parties is needed in the implementation of GCG. The problem that will be raised from the explanation above is how to implement the principles of Good Corporate Governance in the company. [6]

Methods

The research method used is a normative research method, using a statute approach related to Good Corporate Governance (GCG) Principles In Persero.[7] The statute approach is to examine matters relating to legal principles, legal views and doctrines, and laws and regulations related to Good Corporate Governance (GCG) Principles In Persero, and accurate and accountable data.[8] In addition, an in-depth examination of the legal facts is also held to then seek solutions to the problems that arise in the symptoms in question.[9]

Results and Discussion

1.Principles of Good Corporate Governance

State-Owned Enterprises are Limited Liability Companies (PERSERO) as referred to in Article 1 number 2 of Government Regulation Number 12 of 1998. The objectives of implementing good corporate governance are as follows: [10]

- a. Maximizing the value of SOEs by increasing the principles of openness, accountability, trustworthiness, responsibility, and fairness so that companies have strong competitiveness, both nationally and internationally;
- b. Encouraging the management of SOEs in a professional, transparent and efficient manner, as well as empowering functions and increasing the independence of organs;
- c. Encouraging organs in making decisions and carrying out actions based on high moral values and compliance with applicable laws and regulations, as well as awareness of the existence of SOE's social responsibility towards stakeholders and environmental sustainability around SOEs;
- d. Increasing the contribution of SOEs in the national economy;
- e. Improving the national investment climate;
- f. The success of the privatization program.

Limited Liability Company (Persero) is a State-owned company which is regulated in Government Regulation Number 12 of 1998 concerning Limited Liability Companies. According to the provisions of Article 1 number 2 PP. No. 12 of 1998 it was explained that a Persero is a state-owned company formed based on Law Number 9 of 1969 in the form of a Limited Liability Company as referred to in Law Number 1 of 1995 in conjunction with Law Number 40 of 2007 which all or at least 51% of the shares issued owned by the State through direct equity participation.[11] The purpose of establishing the Company is to provide goods and/or services of high quality and strong competitiveness, and to pursue profits in order to increase the value of the company, this is in accordance with Article 12 of Law Number 19 of 2003. In carrying out the activities and processes of company management, the company has corporate organs, namely the General Meeting of Shareholders (GMS), commissioners, directors, employees who have their respective duties and authorities in accordance with the rules that govern the company such as the articles of association, the Limited Liability Company Law which is based on a mechanism Good Corporate Governance or GCG principles are transparency, independence, accountability, responsibility, fairness.[12]

2. Implementation of GCG Principles in Persero

Article 33 of the 1945 Constitution of the Republic of Indonesia expressly and clearly states that "the national economy is organized based on economic democracy with the principles of togetherness, efficiency, justice, sustainability, environmental insight, independence and by maintaining a balance of progress and national economic unity", this indicates that the Indonesian economy is expected to always develop in line with the progress of the times, and the implementation of GCG is needed to provide impetus for the creation of an economy that is efficient, transparent, and consistent with existing laws and regulations. Furthermore, in the implementation of GCG to be in line with the objectives to be achieved, it is necessary to have the support of three interconnected and supportive pillars, namely the State and its apparatus as regulators, the business world as market players, and the community as users of products and services in the business world.[13]

Persero in managing the company is guided by the principles of GCG, this is based on the Decree of the Minister of Finance of State-Owned Enterprises Number: KEP-117/M-MBU/2002 concerning the Implementation of GCG Practices in State-Owned Enterprises, hereinafter abbreviated as KepMen State-Owned Enterprises. No.117/2002 and specifically regulated in the Code of Corporate Governance and Code of Conduct issued by the Commissioners and Directors based on the Joint Decree of the Commissioners and Directors Number: KEB/K/1/2006 and Number: KEB/2/2006 as an instrument for the issuance of the GCG Guidelines for State-Owned Enterprises. [14]

The description of intentions to Good Corporate Governance, namely: [15]

a. Principle of Transparency

Article 3 Decree of the Minister of State-Owned Enterprises Number. 117/2002, states the notion of transparency, namely openness in carrying out the decision-making process and openness in presenting material and relevant information about the company.[16] The General Meeting of Shareholders (GMS) is the highest organ in the Persero, in this case the Government acts as a shareholder which in the implementation of a decision is controlled by the government under the Minister of Finance and the Minister of SOEs, this is clearly stated in the provisions of Article 14 paragraph (3) of the Law. State-Owned Enterprises “The Minister may grant power of attorney with substitution rights to individuals or legal entities to represent them at the GMS, and in Article 5 paragraph (1) of Government regulations Persero also stipulates that “the Minister of Finance may grant power of attorney with substitution rights to the General State-Owned Enterprises, individuals, or a legal entity to represent it in the Persero's GMS. In the decision-making process, both the Minister of Finance and the Minister of State-Owned Enterprises, there is an element of openness that is reflected in the GMS, then the results of the GMS are contained in the minutes of the GMS or published in the form of a signed written decision.[17]

In connection with the decision-making process, an example can be taken in the Decree of the Board of Directors which contains policies for the implementation of Law Number 33 of 1964 concerning the Mandatory Passenger Accident Insurance Fund and Law Number 34 of 1964 concerning Road Traffic Accident Funds and the implementation of laws and regulations. applicable. [18] In the Minutes of Meetings the Board of Directors needs to maintain the minutes of the meeting, this is because the minutes are an official document that contains the matters discussed and decided in the meeting and is the evidence behind the taking of an action, both the Board of Directors, the Board of Commissioners, and the shareholders in the management of the company. When viewed in Article 14 of the Company Law, the essence of the content of this article is that in the decision-making process the Minister acts as a GMS, then Article 77 of the SOE Law states that for every GMS, minutes of meeting must be made which are approved and signed by the GMS participants. [19]

In order to realize effective supervision in carrying out the duties of the Commissioner/Supervisory Board, it is necessary to be assisted by the Audit Committee in charge of assessing the implementation of activities and the results of audits carried out by the internal supervisory unit and external auditors, providing recommendations regarding the improvement of a satisfactory review system for all information issued by SOEs. , identify matters that require the attention of the Commissioner/Supervisory Board.

Article 67 of the Law on State-Owned Enterprises explains that every State-Owned Enterprise must have an Internal Supervisory Unit which is the company's internal supervisory apparatus led by a head who is responsible to the president director. The results of the examination or the results of the implementation of the duties of the internal supervisory unit in writing must be submitted by the Board of Directors to the Board of Commissioners/Supervisory Board. The Board of Directors must pay attention and immediately take the necessary steps for everything that is stated in every report on the results of the examination made by the internal supervisory unit. In carrying out its duties there is the principle of transparency in accessing information, this is clarified in the provisions of Article 28 paragraph (1) of Kep-Men Number. 117/2002, namely SOEs are required to disclose important information in the Annual Report and Financial Statements of SOEs to shareholders/capital owners, and relevant government agencies. in accordance with applicable laws and regulations in a timely, accurate, clear and objective manner. [20]

b.Principle of Independence

Article 3 of the Decree of the Minister of State-Owned Enterprises Number 117/2002, states that what is meant by the principle of independence is a condition in which the company is managed professionally without conflict of interest and influence/pressure from any party that is not in accordance with the applicable laws and principles and principles. sound corporate principles.[21] The principle of independence is manifested in the case that members of the Board of Directors are prohibited from holding concurrent positions as, (a) Members of the Board of Directors in State-Owned Enterprises, Regional-Owned Enterprises, Private-Owned Enterprises, and other positions that may cause conflicts of interest; (b) Other structural and functional positions in central and regional government agencies/institutions; and or (c) other positions in accordance with the provisions in the Perum establishment regulations and statutory provisions. The prohibition on concurrent positions is intended for members of the Board of Directors to really devote all their energy and thoughts and/or full attention to the duties, obligations and achievement of the company's goals and to avoid conflicts of interest, this is in accordance with the provisions of Article 92 paragraph (1) of the Company Law, namely the Board of Directors. carry out the management of the company for the benefit of the company and in accordance with the aims and objectives of the company. This is to create a conducive atmosphere in carrying out every company management activity which has been stated in the Law on State-Owned Enterprises and Decree of the Minister of Finance Number 117/2002.[22]

The principle of independence can also be seen in the composition of the Board of Commissioners in making decisions that must be effective, precise and fast and can act independently, in the sense that they do not have interests that can interfere with their ability to carry out their duties independently and critically in relation to each other and to the Board of Directors. This is in accordance with the duties of the Board of Commissioners as stated in Article 108 of the Company Law paragraph (1), namely to supervise management policies, the general course of management, both regarding the company and the company's business, and provide advice to the Board of Directors. In fostering business relations with the Company's relations/partners, there are actions that cannot be avoided such as giving and/or receiving gifts, rewards, souvenirs, or business meals, in this case a stable mechanism and official channel with good governance is needed so that it does not create a conflict of interest that can affect important decision making in running the company's business.[23]

In carrying out its duties, the Board of Commissioners/Supervisory Board forms an Audit Committee that works collectively and functions based on the provisions of Article 14 paragraph (5) of KepMen No. 117/2002, which is tasked with assisting the Commissioner/Supervisory Board in ensuring the effectiveness of the internal control system and the effectiveness of the implementation of the duties of the external auditor and internal auditor. The Audit Committee must be free from the influence of the Board of Directors, external auditors, the Audit Committee is indirectly responsible to the Board of Commissioners. According to the GCG Guidelines issued by the National Committee for Governance Policy, the duties and authorities of the Audit Committee are as follows: (a) encourage the establishment of an adequate internal control structure; (b) improve the quality of financial disclosure and reporting; (c) reviewing the scope and appropriateness of the external audit, the reasonableness of the external audit fee, as well as the independence and objectivity of the external audit; (d) prepare a letter describing the duties and responsibilities of the Audit Committee during the financial year which is being examined by the external auditor.[24]

Furthermore, according to the Decree of the Minister of State-Owned Enterprises Number 103/2002, the duties and responsibilities of the Audit Committee are as follows; (a) assess the conduct of the audit and its results; (b) provide recommendations on improvements; (c) the company's management control system and its implementation; (d) ensure that there are adequate review procedures for

information issued by SOEs; (e) identify matters that need the attention of the commissioners or the board of directors; (f) carry out other duties within the scope of duties and obligations of the commissioners.

The implementation of the principle of independence will explain and reaffirm that there are duties and responsibilities of the Audit Committee in managing the company efficiently, effectively, precisely and quickly as well as acting independently in assisting the Commissioner/Supervisory Board to ensure the effectiveness of the implementation of the duties of the external auditor and internal auditor.[25]

c. Accountability Principle

Article 3 of the Decree of the Minister of State-Owned Enterprises Number 117/2002 states that what is meant by the principle of accountability is the clarity of the functions, implementation and accountability of each organ in the effective management of the company. The company's organs consist of the GMS, Commissioners, Directors, who in carrying out their functions as company managers are required to always be in the same direction and in balance with full responsibility, in the implementation of the accountability principle manifested in the clarity of the functions and authorities of each organ, which is broadly based on the laws and regulations. related invitations and Decree of the Minister of SOEs No. 117/2002.[26]

The GMS is a corporate organ that has authority that is not given to the Board of Directors or the Board of Commissioners within the limits specified in the law and/or the articles of association, this is stated in Article 1 paragraph (13) of the Law on State-Owned Enterprises, in Article paragraph (4) The Company Law provides the same understanding regarding the GMS, furthermore in the provisions of Article 14 of the State-Owned Enterprise Law it states that the Minister may grant substitution rights to individuals or legal entities to represent at the GMS, the party receiving the power of attorney must obtain approval from the Minister to make decisions regarding; (a) changes in the amount of capital; (b) amendments to the articles of association; (c) profit utilization plan; (d) merger, consolidation, acquisition, separation and dissolution of Persero; (e) long-term investment and financing; (f) Persero cooperation; (g) establishment of subsidiaries or participation; (h) transfer of assets. From this it is stated that the implementation of the accountability principle can be realized from the GMS, in addition to the GMS for Shareholders/capital owners, it is illustrated that the implementation of the accountability principle is not allowed to interfere in the company's operational activities which are the responsibility of the Board of Directors in accordance with the provisions of the Company's articles of association and the prevailing laws and regulations. apply.[27]

The Board of Commissioners is responsible and authorized for the general management, both regarding the company and the company's business, and oversees actions and provides advice to the Board of Directors if deemed necessary. This supervision and advice is carried out for the benefit of the company and in accordance with the aims and objectives of the company. The Board of Commissioners must comply with the Articles of Association and applicable laws and regulations, in conducting the Board of Commissioners meetings are held periodically. The Board of Commissioners determines the rules of the meeting, minutes of the meeting must be made by including the dissenting opinions of the meeting participants. The Board of Commissioners has the right to obtain timely and complete access to information, members of the Board of Commissioners are prohibited from taking personal benefits from company activities other than the salary and benefits received. The Board of Commissioners must determine a transparent system for the appointment of executives and executive performance appraisals, in addition the Board of Commissioners considers the formation of a nomination committee for the selection and appointment of executives, a remuneration committee to develop a review system and the provision of benefits and other facilities within the company and an audit committee whose members come from from members of the Board of Commissioners to support the implementation of the duties of the Board of Commissioners.[28]

The Board of Directors is obliged to account for the implementation of its duties to shareholders through the GMS, the composition of the Board of Directors must be in such a way as to enable effective, precise and fast decision making and act independently in order to carry out their duties independently and critically. In carrying out their duties, the Board of Directors must comply with the articles of association and applicable laws and regulations, members of the Board of Directors are prohibited from taking personal benefits from the company's activities, other than salaries, allowances, and share compensation received as members of the Board of Directors based on the GMS. Meetings of the Board of Directors are held periodically by establishing meeting rules and regulations, and the minutes of the meeting must include the dissenting opinion of the meeting participants. The Board of Directors also establishes an effective internal control system to secure the investment and assets of the Company. The Board of Directors is required to notify the Audit Committee if the Board of Directors requires a second opinion on important accounting issues, then the Board of Directors is required to maintain and maintain a Register of Shareholders and a special register in accordance with the laws and regulations.[29]

The implementation of the accountability principle by the Persero's Commissioners has the task of supervising the management of the company, the duties and authorities and obligations of the Commissioners are set out in the Persero's Articles of Association, and based on the Persero's Articles of Association, the Board of Directors is responsible for providing information such as providing periodic reports according to the method and time in accordance with the provisions and other reports. whenever requested by the Board of Commissioners.[30]

d.Responsibility Principle

Article 3 of the Decree of the Minister of State-Owned Enterprises Number 117/2002, states that the principle of responsibility is conformity in the management of the company to the prevailing laws and regulations and the principles of a healthy corporation. The implementation of the principle of responsibility is realized by realizing that responsibility is a logical consequence of the existence of authority, being aware of social responsibility, environmental responsibility, avoiding abuse of power, being professional while upholding ethics in carrying out company activities. [31]

Regarding social and environmental responsibilities, Article 1 of the Company Law explains that social and environmental responsibility is the company's commitment to participate in sustainable economic development in order to improve the quality of life and the environment that is beneficial, both for the company itself, the local community, and the community at large generally. Social and environmental responsibility is a new provision regulated in the Company Law. Corporate Social Responsibility (CSR) is a global trend in line with the splendor of concern for prioritizing stakeholders and this cannot be separated from GCG principles that apply the principles of fairness, transparency and accountability. The idea of Corporate Social Responsibility (CSR) is expected that companies are no longer faced with responsibilities that favor the single bottom line, namely the value of the company (corporate value) which is reflected in financial conditions (financial) but also companies pay attention to social and environmental impacts (triple bottom line).), and it is a fact that the resistance of the surrounding community appears on the surface against companies that are considered not to pay attention to the environment.[32]

The principle of accountability in the company which is more emphasized is that it must adhere to applicable laws and carry out activities responsibly both to stakeholders and to the community, in addition to fulfilling its responsibilities to shareholders and stakeholders, it must comply with the provisions of the law and regulations, related invitations and Ministerial Decree Number 117/2002 concerning the Implementation of GCG Practices in State-Owned Enterprises. The existence of conformity with corporate governance that leads to GCG which contains the principles of GCG is evidenced by the issuance of the Code of Corporate Governance and Code of Conduct which have been made jointly with the Commissioners and Directors based on the Decree together with the Commissioners

and Directors Number KEB/K/1/2006 and Number KEB/2/2006 as instruments for issuing SOE GCG guidelines. [33]

In the implementation of GCG principles, it can be seen from the supervision of the implementation of the Articles of Association and laws and regulations by the Board of Directors which is carried out by the Commissioners through the Audit Committee, and it should also be noted that all shares in the Persero are still 100% owned by the government based on the provisions of Article 14 paragraph (1) of the Corporate Law. State-Owned Enterprises which state that the minister acts as the GMS in the event that all shares of state-owned companies and limited liability companies are not controlled or owned by the State. [34]

e. Fairness Principle

Article 3 KepMen No. 117/2002 states that the principle of fairness is justice and equality in fulfilling the rights of stakeholders that arise based on agreements and applicable laws and regulations. The principle of fairness can be realized between making regulations for the interests of the minority, making corporate conduct and/or policy policies that protect the corporation against the actions of insiders, self-dealing and conflicts of interest, determining the roles and responsibilities of directors and committees, including the remuneration system, presenting information fairly (full disclosure) and prioritizing equal job opportunity. Article 30 of the state-owned enterprises Law explains that the Board of Directors must hire, determine the amount of salary, provide training, determine career paths, and determine other work requirements, regardless of a person's ethnic background or other specialties protected by laws and regulations. The Board of Directors is required to provide a work environment that is free from all forms of personal pressure, and one's cultural background, and this creates a code of corporate governance and code of conduct in terms of realizing justice to respect human rights. stakeholders and to realize good governance that serves as a guide for human workers in interacting with stakeholders. [35]

This Code of Conduct is specifically made by prioritizing honesty, ethical behavior, and preventing violations from occurring, and violations of the guidelines are disciplinary actions so that sanctions can be imposed in accordance with the applicable provisions of the company. the code of conduct is prepared based on the noble values that develop in the employee environment and is believed to have a positive influence to be able to create a conducive atmosphere as the achievement of the vision and mission of the company. , deeds, traditions, good habits and develop in the company; behavioral commitment, outlining a strong determination from all actions to interact with fellow humans and the company; implementation of the code of conduct, outlining the mechanism for handling problems The codified values require an internalization process through continuous socialization and simulation so that they can be integrated into a corporate culture, which automatically has an important role in efforts to realize the company's goals so that all company personnel from the Commissioners, Directors to the lowest employees must understand and To live seriously, this will lead to a principle of fairness between employees of the company by realizing that there is a good relationship within the service and outside the service between superiors and subordinates and fellow co-workers will create a harmonious working atmosphere and a strong sense of togetherness.

Conclusion

Based on the results of research related to the Good Corporate Governance (GCG) Principles In Persero, the implementation of GCG principles, namely transparency, independence, accountability, responsibility, fairness as stated in Decree No. 117/2002 concerning the Implementation of GCG Practices in State-Owned Enterprises (within Persero) and supported by the Limited Liability Company Law, the State-Owned Enterprises Law and PP Persero are benchmarks for the successful implementation

of GCG principles which are specifically regulated in the Code of Corporate Governance and Code of Conduct as an instrument for implementing Good Corporate Governance.

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