



# Legal Consequences of Limited Partnership (CV) that Have Not Been Registered in the Business Entity Administration System (SABU) for Third Parties

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**Abstract.** The new procedure of establishment of CV after the issuance of PP no. 24 the year 2018 and also Permenkumham no. 17 of 2018 has an impact on a CV that has been established before 2018, in Permenkumham CV that has been established before the passing of the regulation must register its CV into a system called SABU maximum one year after this Permenkumham no. 17 of 2018 was legalized. However, no sanctions are explained if a CV established before 2018 has not yet been registered, so there are still CV that has not been registered their CV until now, which results in third parties cooperating with the CV. Therefore, this study aims to determine the legal consequences of a CV that has not been registered in SABU for a third party. SABUod used normative research SABUod by examining the relevant laws and regulations and analyzing them by descriptive qualitative. The result of this study is that a CV that has not been registered in SABU cannot take care of licensing by the latest regulations, so the CV does not have legal certainty in carrying out its business activities. Third parties either will cooperate with CV in seeking profit or are not obliged to make SKT a condition for cooperation.

**Keywords:** Legal Consequences · Partnership · Business Entity Administration System

## 1 Introduction

A CV is the same as a trade business, firm, or civil partnership with the status of a commercial entity that is not a legal entity, henceforth referred to as a business entity. A legal, technical, and economic entity that exists to make a profit [1] is referred to as a business entity. Initially, CV establishment processes in practice followed the firm establishment procedures provided in Articles 22 to 29 of the Book of Commercial Law. Articles 22 to 29 of the Commercial Law require the formation of a CV to be authenticated and recorded in the register provided by the Registrar of the District Court where the CV is domiciled. If a CV is accompanied by an authentic deed signed by a notary, the parties or one of the parties must register the deed in order to obtain a decision from the District Court where the CV is domiciled [2].

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Government Regulation 24 of 2018 on electronically integrated company licensing services was published by the government in 2018. (Also known as 2018 PP No. 24). PP No. 24 of 2018 governs the implementation of electronic integrated business licensing, commonly known as Online Single Submission. (OSS). The OSS Institution grants a business license to business actors on behalf of the Minister, head of the institution, governor, or regent/mayor, using an integrated computerized system. CV is classified as a non-individual OSS candidate per PP No. 24 of 2018. Furthermore, Article 15 requires that the CV used to apply for OSS be registered with the Ministry of Law and Human Rights, which oversees government operations in the sphere of human rights.

As a result of PP No. 24 of 2018, the Ministry of Law and Human Rights issued Regulation No. 17 of 2018, which governs the registration of limited partnerships, firm partnerships, and civil partnerships (from now on, referred to as Permenkumham No. 17 of 2018). Permenkumham No. 17 of 2018 in general defines the new standards regulating the establishment of CV, firm, and Civil Partnership, all of which were first established with an authentic notarial deed and determination. The District Court's judgement is no longer required for the CV's legality, but it must be registered in a system known as the business entity administration system (SABU) [3]. The applicant submitted to the Minister an application for registration of the establishment of CV based on the requirements of Permenkumham No. 17 of 2018.

The renewal of legislation relating to the creation of a CV that must be registered with SABU is, of course, to keep up with technological changes in business and technology. The government wishes to regulate the registration procedure in order to give entrepreneurs with legal clarity and ease, particularly for CV businesses, firms, and civil partnerships. So that CV may be formed while saving time since it does not need to be determined by the District Court again, and if there is a system that supports it, all data linked to CV will be neatly maintained in the same place [4]. Furthermore, the CV establishment registration seeks to guarantee that the CV establishment is properly established and maintained in order to safeguard enterprises that act honestly (*te goader Trow*) from an irresponsible third party. According to Janes Sidabalok, as mentioned by Rini Fitriani, this registration is also essential for a business (CV) that undertakes commercial operations, because company registration (CV) is an identity that legalizes or certifies a corporation so that the public recognizes it. In this case, the business's legality must be authentic in accordance with rules and regulations, where the company (CV) is defended or protected with numerous papers until it is valid under the eyes of the law in the present controlling government [5].

However, creating a CV that must first be registered with SABU has an influence on CVs created prior to the adoption of Permenkumham No. 17 of 2018. The CV that was established prior to 2018 and prior to the approval of Permenkumham No. 17 of 2018, of course, is still established with an authentic certificate and endorsement from the local District Court, causing legal consequences related to the legality of the CV, particularly to the third party. As a result, every CV must re-register the legality of the agency company with SABU. Assume a CV has not amended its articles of incorporation, particularly the goals and objectives for carrying out the CV's commercial activities. In that case, it will have an impact on the CV's cooperative relationship with job organizers, whether from the government or the private sector, as well as the business licenses carried out by the

CV and the legality of its business entity registered with the association that houses the business entity.

Permenkumham No. 17 of 2018 states in Article 23 that when this Ministerial Regulation enters into force, the CV that has been registered in the District Court based on laws and regulations must register the registration within 1 (one) year of the Ministerial Regulation's promulgation, which must be no later than August 1, 2019. Registration is permitted to utilize a previously used name, provided that the name has not been used by another CV properly registered in SABU. Non-tax revenues are not applicable to this registration (PNBP). However, Permenkumham No. 17 of 2018 does not specify any further punishments or legal ramifications if a CV registered in the District Court does not register its CV in SABU within a year, and there are still CVs that have not registered their business in SABU.

CV registration is essential, however, because CV registration will be concerned with the most important component of a CV's course, which is related to the legitimacy and licensing of the CV. Consideration of the issuance of PP No. 24 of 2018 relating to OSS, specifically in the context of accelerating and expanding investment and business, and putting into effect the provisions of Article 25 of Law No. 25 of 2007 concerning 29 investments, and Articles 6 and 7 of Law No. 23 of 2014 concerning regional government, as amended several times recently by Law No. 9 of 2015 concerning the Second Amendment to Law No. 23 of 2014 concerning regional government. Business licenses issued by ministries or institutions and local governments to form, execute, and expand businesses must be reorganized to be a supporter rather than a hindrance to company development in order to accelerate and grow investment and business. The usage of licensing services electronically integrated business (OSS) is required due to the realignment of the service system and regulation by business demands and current technological improvements [6]. While Permenkumham No. 17 of 2018 is the implementation of PP No. 24 of 2018, it is also intended to make it easier for company owners to register their CV and ensure its legal certainty.

Because there is no apparent sanction stipulated in Permenkumham No. 17 of 2018, if the CV that has been established before 2018 does not or has not registered the CV into the SABU with a grace period of a year, raises questions for personal writers, and if given the importance of CV registration as described above, but there are no explicit provisions governing related sanctions or legal consequences to the CV not yet registered in SABU give their questions to the author. What are the legal consequences of the CV, which until now has not been registered in SABU, especially to the third party? Demand all the themes of this study is "how the legal consequences CV that has not been registered in the administrative system of business entities for third parties."

## 2 Method

This paper uses the normative research method, which is Legal resources in the form of law are prioritized as key reference material in research. According to Soerjono Soekanto and Sri Mamudji, as stated by Ishaq, normative legal research is legal study conducted via the use of library resources or secondary data [7]. The approach legislation is the sort of method utilized by researchers (Statute Approach). The Statute approach is frequently

used to analyze flawed legislation or even to induce deviation at the technical level or in its field implementation [8]. In normative research, the technique of collecting legal materials is carried out by focusing on primary and secondary legal materials related to the legal consequences of a partnership that has not been registered in SABU, such as a) document studies, namely by reviewing laws and other related rules, as well as books and journals related to Partnership Alliance. b) Find legal documentation about the partnership on the internet in the form of articles or web pages. In addition, qualitative descriptive analysis is used in this study to describe, define, clarify, and explain a condition and occurrence, which is then completed by the subject matter.

### 3 Result and Discussion

Following the issuance of PP No. 24 of 2018, which covers the electronic-based integrated business licensing (OSS), changes are made to registration or CV validation, which is also done online in accordance with Permenkumham No. 17 of 2018. The new CV legislation will likely have an influence on CVs that were formed before to Permenkumham No. 17 of 2018. The CV that was established prior to Permenkumham No. 17 of 2018 must adjust the legality of his CV to be in line with Permenkumham No. 17 of 2018. Permenkumham No. 17 of 2018 provides a deadline for the CV that was established prior to Permenkumham No. 17 of 2018 to register their CV into SABU no later than one year after Permenkumham No. 17 of 2018 is valid. However, Permenkumham No. 17 of 2018 does not mention strict sanctions for a CV that do not or have not registered according to the deadline. This leads to many CV that, until now, have not registered their CV into SABU. However, registration of a CV is essential to do because the registration of the CV will be concerned with the most important thing from the course of a CV that is related to the legality and licensing of the CV business.

Fundamental differences related to CV registration after the issuing of Permenkumham No. 17 of 2018, specifically in the CV registration procedure Prior to the publication of Permenkumham No. 17 of 2018, in order for a CV to be said to be valid in practice in accordance with the provisions of the firm regulated in the KUHD, allies or allies of the CV must register the deed of establishment of the CV with the District Court where the CV conducts its business activities and request an endorsement stamp from the local District Court. However, as of Permenkumham No. 17 of 2018, CV validation no longer requires an endorsement stamp from the local District Court, but rather a registered certificate (SKT) CV received once the CV has been entered into SABU. As the CV that was founded before to the issuing of Permenkumham No. 17 of 2018, it must register the registration and recording of modifications (if the CV has ever made changes to the articles of organization) into SABU within one year after the issuance of Permenkumham No. 17 of 2018.

These are the procedures for recording CV registration based on Permenkumham No. 17 of 2018 are as follows:

1. Registration of CV registration is done at SABU which can only be accessed by a notary. Notary bought a voucher to record the registration of a CV.

2. From vouchers these will later make payments related to the recording of CV changes paid through the perception Bank in accordance with the provisions of laws and regulations.
3. After the payment is made, the notary will get a code that can be used to record the registration of the CV.
4. Booking names, such as the initial step of establishing a new CV on SABU. This is based on Article (4) of Permenkumham number 17 of 2018, "the application for registration as referred to in Article 3 must be preceded by the submission of CV, firm, and civil partnership names.
5. Enter data related to the parties who established the CV of both active allies and Allied commanders.
6. Enter the CV data to be carried out registration records such as the first deed of establishment CV and stamp endorsement from the District Court.
7. After inputting all data has been completed, the minister will issue the CV SKT electronically. Notaries can directly print their own SKT CV using white paper size F4/folio with a weight of 80 (eighty) grams.
8. If the CV already has SKT on behalf of the CV itself, then the CV has been officially registered in SABU and has fulfilled the legal requirements of a CV according to Permenkumham No. 17 of 2018 as for if the CV turns out to have made changes to the articles of association before the issuance of Permenkumham No. 17 of 2018 then after the registration, the CV must also register/record changes in its articles of association into SABU.
9. And these are the procedure for recording changes to the articles of the Association of CV according to Permenkumham No. The 17 years of 2018 are as follows:
10. Changes to the articles of the CV Association are registered through SABU. The modifications indicated may include the identity of the founder, which includes the founder's name, residence, and occupation; business operations; the rights and liabilities of the founders; and/or the date the CV was established.
11. If there is a change in the name of the business entity CV in the application for registration of changes in the articles of association, the application for registration of changes articles of association CV submitted after the use of the name of the Civil Partnership CV obtains approval from the Minister.
12. Input supporting documentation for registration of CV budget adjustments, including the identification of the parties, an electronic statement from the application regarding CV budget changes, and a statement from the Corporation certifying the validity of the CV's beneficial owner.
13. Input document of modification of articles of association CV, which includes: deed of amendment of articles of association CV; copy of NPWP CV that has been notarized; and evidence of payment of registration of amendment of articles of association CV.
14. If all data is entered correctly, the minister will provide a Certificate of Registration of Changes to the CV's Articles of Association.

Late registration can affect the name of the CV. In Permenkumham No. 17 of 2018, names that have been used and legally registered with SABU may not be used again by other CV. Registration of the name of the CV can use the name that was previously used

by the CV, but not the same as the name of the CV that has been registered in SABU so that if a CV is late to register, the potential registration of the CV is already used by another CV so that the CV is late to register to add or change your CV name [9]. In addition to the different registration processes, there are other differences related to CV business licensing. Before the approval of PP No. 24, the year 2018 application for licensing trying to get a business license (SIUP) for CV is still made manually.

The application for obtaining a business license (SIUP) for CV is still made manually. The primary step of SIUP application for CV before the ratification of PP No. 24 of 2018 are as follows:

1. The owner of the company or can be represented by proxy can take care of the SIUP application to the local trade office or the head of the Licensing Service office as the issuer of the SIUP in the region where the CV is domiciled.
2. Fill out the registration form or application letter that has been provided which is equipped with the conditions that have been determined such as; Deed of establishment CV that has been approved by the District Court, photocopy of ID card CV owner, domicile certificate, photocopy of tin, initial balance sheet capital owner, photo active participant / Director, other permits related to the business run.
3. Pay according to local regulations.
4. The business license for a CV is valid for 5 years and must be renewed continuously as long as the CV is still conducting its business activities.

Meanwhile, since June 2018 the establishment of PP No. 24 of 2018 licensing arrangements are trying to CV done by online based on institutions and the OSS system. Currently, OSS is regulated in PP No. 5 of 2021. The procedure for applying for a business license through OSS is good according to PP No. 24 of 2018 and PP No. 5 of 2021 the outline is as follows:

1. Business actors access the OSS page and fill in the data for licensing applications such as name and/or registration number of the deed of establishment and CV registration number contained in the CV SKT, line of business in accordance with the KBLI code, NPWP of business actors, especially active participants, contact numbers of business entities, NIK responsible for business, and completeness other documents required.
2. OSS institutions issue NIB and NPWP CV after the business actor completes the registration and fills in the required data.
3. The NIB in question is a random number of 13 (thirteen) digits protected by an electronic signature. Based on the explanation of the legal theory of Based on the legal theory of development's explanation, it is necessary to limit freedom by regulating consignment agreements under Indonesian legislation in order to provide justice for the parties, both consignees and consignors, by reconstructing the UUMKM related to the arrangement of partnership patterns by specifically regulating consignment agreements with determining the materials or clauses that must exist as minimum requirements, such as provisions regarding the payment mechanism and the responsibilities of the parties for the goods being entrusted for sale.

The NIB mentioned above is a company registration mark (TDP) and is a business identity used by business actors to secure business and commercial or operational licenses, including business licensing requirements and commercial or operational licenses. The NIB is valid as long as the business actor operates in accordance with the provisions of laws and regulations.

Although recording to the hierarchy of Permenkumham is a regulation lower than the KUHD, the need to carry out integrated services electronically is more adapted to the current conditions in Indonesia [10]. Permenkumham is a new regulation whose implementation is considered to facilitate the needs and better adjust the progress of the current era. Also, in practice, Permenkumham No. 17 of 2018 has become a guideline for registering the deed of establishment CV. The court did not want to accept the CV registration file brought by the parties to be ratified because the court was aware of the Permenkumham No.17 of 2018. Legal certainty in the Registration of the deed of the establishment can be said there is certainty legal, namely legal certainty to be able to create and register a CV registered with the Minister of Law and Human Rights, which is done online through SABU. SKT will be issued and used as a basis for conducting business activities [11].

In his book, Dirdjosisworo wrote that legal consequences could be interpreted as an effect caused by the existence of a legal relationship. A legal relationship provides rights and obligations that have been determined by law so that if violated it will result, the person who violated it can be prosecuted in court. A friendship relationship can be like breaking a promise to go to the movies together without legal consequences. However, non-legally, for example, a wedge or sour taste of the Promised can happen [12]. While Soeroseo describes it as the outcome of an activity carried out to achieve a desired impact by the offender and governed by legislation. This is referred to as a legal action. As a result of legal action, a legal impact is produced [13]. A legal situation's birth, alteration, or removal might have legal repercussions. The formation, modification, or termination of a legal connection between two or more legal subjects in which one party's rights and responsibilities clash with the rights and obligations of the other, as well as the formation of sanctions if an unlawful conduct is done.

The enactment of Permenkumham No. 17 of 2018 certainly causes legal consequences in addition to conflicting norms and overlapping regulations, the implementation of Permenkumham No. 17 of 2018 also caused uncertainty in the mechanism in the process of Registration and establishment of CV because, on the one hand, the KUHD was not revoked and replaced with a new law as in the limited liability company arrangement, causing the rule to remain in force. With this norm conflict, we must look for legal solutions that can be used as a middle ground to achieve legal certainty. This is done concerning the theory of legal certainty. Gustav Radbruch's theory of legal certainty explains that laws are created or made to have a purpose. Purpose has a sense of value that wants to be realized by humans. The purpose of the law is to fulfill justice by balancing the certainty and benefits of the wise mindset [14]. The purpose of the law is to advance every citizen and not to impose God's Commandments or protect natural rights. Based on the opinions of both jurists Gustav Radbruch and Jeremy Bentham, it can be concluded that law is formed by purpose. It is expected that with the formation of the law, there will be a certainty that affects all who carry out the law. The purpose

of the formation of law, if harmonized with the formation of legislation, must have a purpose as a certainty and cause happiness to every level of society that runs it.

CV registration into SABU aims to ensure legal certainty for businesses running the CV and third parties cooperating on a CV. Based on the opinions of both jurists Gustav Radbuch and Jeremy Bentham, a law is formed by purpose. It is expected that with the formation of the law, there will be a certainty that affects everyone who executes the law. The purpose of the formation of law, if harmonized with the formation of legislation, must have a purpose as a certainty and cause happiness to every level of society that runs it [15]. Likewise, CV registration into SABU is intended to ensure legal certainty for both business actors and third parties who cooperate with the CV. The emergence of legal protection will also follow the existence of legal certainty. If a CV is registered as a good CV in SABU, the CV has legal certainty in carrying out its business. The CV will also get legal protection by applicable regulations if unwanted things happen to parties, by the definition of legal protection “The definition of Legal Protection is to guide human rights harmed by others, and the protection is given to the public so that they may enjoy all the rights granted by law” [16]. Protection means protecting soSABUing from dangerous things [17]. The context of legal protection here can also be interpreted as all the government’s efforts as a regulator in ensuring the creation of legal certainty related to CV both for business actors and third parties. So working with a CV that has not been registered in SABU will be detrimental to third parties because the CV does not have legal certainty in carrying out its business activities. If there is no legal certainty, then there is also no legal protection that can be obtained.

The CV that has not registered his company into SABU cannot apply for permission through OSS following PP No. 5 of 2021 because it does not have SKT registered in SABU. This causes legal consequences for third parties for CVS that have not or are not registered. The third parties are the same as cooperating with CVS that do not have legality and do not have legal certainty regarding CVS and their business activities because CVS that has not been registered in SABU cannot be licensed through OSS, which means the CV is not complete administrative requirements in carrying out its business activities. As for other legal consequences that can arise that are related to the vagueness of collection if there is debt by the CV. As previously explained, the fundamental difference between a CV and a firm lies in its allies. CV has two allies: active ally/participant complementary and passive ally/participant kiter. The limited liability company does not run the CV in full. However, it is only responsible for the extent of the capital put into the CV, in contrast to the complementary company, which is fully responsible for the running of a CV, even if there are losses and the wealth of the CV is not enough to compensate personal property of the complementary participant is very likely to be taken in order to cover the CV loss. On the CV that has been registered, then Billing is only done to active/complementary allies. As for the CV that has not been or is not registered in the SABU, resulting in the legal status of the CV to be like an ordinary civil partnership, this causes that debt collection can be done to each ally, both active and passive have the same responsibility in the CV.

For those parties who will cooperate with CV from financial institutions or not, it is mandatory to make SKT a condition of cooperation. Considering the legality of a business entity is the most crucial element. This is important because legality is the



identity that legalizes or legalizes a business entity to be recognized by the community and government. So it can be concluded related to the regulation that business entities that do not have SKT following Permenkumham No. 17 of 2018 will get obstacles in the management related to the licensing issue because of the use of the system (OSS), so the legal effect is mandatory to make the Registration of CV into SABU or the existence of SKT as a condition for working with CV [18]. Legal ramifications for third-party collaborators with CV If the deed of establishment of CV is not registered, then the legal consequences described in Article 29 of the criminal code apply, in which CV lacks legal certainty and is considered invalid as CV but as a General Civil Partnership in which all parties have responsibilities in the relationship between active and partnership participants [19].

As for notaries, according to Law No. 30 of 2004, the position of Notary as a public official is entitled to make genuine deeds about all deeds, agreements, and stipulations needed by a general rule. According to Article 1 of the Act, a notary is a public official who has the authority to make valid deeds and exercise the other functions mentioned in the Act. Notaries are becoming increasingly important in order to provide authentic written documentation of a legal act performed in a community. Some legal rules, such as Permenkumham No. 17 of 2018, require some legal actions to be performed in authentic acts. Notary and deed goods are an endeavor by the state to provide community members with clarity and legal protection [20]. Now that the Notary is confronted with the advancement of science and technology, it is expected that law and the Notary will recognize that science is always evolving. Law evolves in tandem with the advancement of society. The implementation of being able to carry out competences by the code of ethics of notaries is connected to notary competence. According to the code of ethics, a notary is required to improve his knowledge; this means that the Notary is also required to develop Science related to Permenkumham number 17 of 2018, which includes conducting Registration of limited partnership, firm partnership, and civil partnership, including Registration of the deed of establishment, Registration of amendment of articles of association, and Registration of dissolution. So, the legal ramifications for the Notary are that the Notary is required to register a CV belonging to the party confronting him who registers the Registration into SABU, because, up until now, only the Notary has access to SABU.

## 4 Conclusion

In conclusion, this study resulted in the issuance of PP No. 24 of 2018, followed by the issuance of Permenkumham No. 17 of 2018. It gave legal consequences for CVS that had been established, but it has not registered its CVs until now. A CV that has not been registered into the SABU has the upcoming consequence on the name that the CV has used. The name could not be used again if the name was already used by another CV previously registered into the SABU. On the other hand, for third parties who work the same with a CV that has not been registered in SABU, it was assumed that he was working with a CV that did not have legal certainty in implementing its business activities because a CV that had not been registered in SABU did not have SKT which would be used as a basis in managing business licensing through OSS. This means that the CV

was incomplete in its administrative requirements, so it did not have legal certainty in implementing its business activities. Notaries are required to record the registration of a CV into the SABU because the notary is the only authority in access to SABU.

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