DYNAMICS OF INVESTMENT REGULATION: A LEGAL REVIEW OF LAW NO. 25 OF 2007 ON INVESTMENT IN INDONESIA IN OVERCOMING THE "INVESTMENT GHOST"

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ABSTRAK
Investment is one of the important factors in economic growth. Through investment, a country can obtain the capital and technology needed to develop its economy. Indonesia is one of the countries that has great potential to attract foreign investment. However, Indonesia also has a number of challenges in attracting investment, one of which is the "investment ghost". This study aims to provide an overview of how investment regulations in Indonesia have changed and evolved in an effort to overcome the "investment ghost". This study utilizes a qualitative research method. Data is collected through a literature study of various laws and regulations, scientific literature, and related documents. The data that has been collected is then analyzed using three stages, namely data reduction, data presentation and conclusion drawing. The results show that in overcoming investment ghosts, the government overcomes these problems with Law No. 25/2007 on Investment (UUPM). The UUPM adopts the principles of transparency, ease of doing business, and fair business competition. The UUPM also gives greater authority to local governments in organizing investment affairs, which is expected to speed up the investment licensing process and improve coordination between the central government and local governments. Therefore, the UUPM has succeeded in creating a more conducive and attractive investment climate for investors.

Keywords: Investment Regulation, Law No. 25 of 2007, Capital Investment

INTRODUCTION
Economic growth occurs in a country if there is investment originating from within the country called Domestic Investment (PMDN) and originating from abroad called Foreign Investment (PMA) (Rizky et al., 2016). Indonesia as a developing country to achieve the expected economic growth until now is still faced with limited capital. The government continues to provide support in various sectors to attract domestic and foreign investors to be interested in investing in Indonesia. According to Prof. Erman Rajagukguk there are three conditions to be able to bring investors, namely: first, economic opportunity (investment is able to provide economic benefits for investors), second, political stability (investment will be greatly influenced by political stability) and third, legal certainty or legal certainty.

Indonesia as one of the countries with a large economic size and abundant natural resources, offers very attractive investment potential for foreign investors. The country has a wide array of potential
economic sectors, such as agriculture, mining, manufacturing, infrastructure, and the service sector. In addition, its strategic location in Southeast Asia and large population are additional attractions for foreign investors who want to access a large domestic market. In its implementation, Indonesia also has a number of challenges in attracting investment, one of which is the "investment ghost". Minister of Investment/Head of BKPM Bahlil Lahadalia revealed that there are 'ghosts' as the cause of stalled investment in Indonesia, besides that overlapping rules between districts / cities are also one of the triggers for investment stalls (Anggela et al., 2022). According to Widodo, who holds the concession to Marunda port, investment ghosts are parties who always create regulatory obstacles so that investment falters. Therefore, the Indonesian government has issued Law No. 25 of 2007 on Investment, which is the legal basis for regulating investment in the country.

Investment is an action that involves sacrificing current resources in the hope of obtaining a profit or profit in the future. In addition to pursuing high profit potential, investors must also consider the risks associated with this investment activity (Simamora et al., 2017). Investment plays a very important role in economic growth theory, often referred to as the "engine of growth". This investment includes direct investment that has a significant impact on employment, which in turn will increase the value of national production. Investment can come from various sectors, both from the government sector and the private sector. The economic development of a country cannot be separated from investment, which will then contribute to infrastructure development that will trigger national economic growth (Mahriza, 2019). Solid and sustainable investments have the potential to generate consistent economic growth, create job opportunities, and improve the quality of life of residents.

Investment that focuses on the construction or acquisition of physical assets used in the production of goods or services is called investment. Investment is all forms of investment activities, both by domestic investors and foreign investors to do business in the territory of the Republic of Indonesia (Sari & Asmendri, 2020). Investment can be in the form of purchasing new machinery, buildings, production equipment, or infrastructure that will be used to develop a particular business or project. This investment is important because it can increase the production capacity, efficiency, and competitiveness of an economic entity. This investment can accelerate economic growth and improve the quality of life of the community as a whole.

Although there have been regulations such as the Investment Law, there are still issues and challenges that can be identified as investment ghosts in Indonesia. Some of these issues are related to regulatory dynamics. Regulatory dynamics reflect the response to economic changes that occur. To remain relevant, regulation must be able to adapt quickly to economic dynamics, such as technological changes, the evolution of industry structures, and emerging global challenges. This is important so that regulations remain effective and effective. Effective regulation has the potential to have a positive impact on economic growth. Good regulation is characterized by traits such as transparency, clarity, and protection of the rights of economic actors. Such regulations can increase legal certainty, encourage investment, trigger innovation, maintain healthy competition, and support efforts to equalize economic development. Thus, proper regulation can be one of the drivers of positive and sustainable economic growth (Sidiq et al., 2023).

Previous similar research by (Sidiq, 2023) examined comprehensively the dynamics of regulation and its impact on economic growth, the results showed that the relationship between law and economics has complex intersections and influences each other. Proper economic regulation can play an important role in regulating economic activity, promoting growth, and creating a conducive business environment. Another similar study by (Soelistijo, 2011) examines the dynamics of foreign investment (FDI) in the general mining sector in Indonesia, showing that throughout the period 1967 – 1988, Indonesia has produced seven generations of Work Contracts in foreign capital investment for the general non-coal mining sector, followed by three generations of Coal Contracts. Analysis of the details of the Employment Contract shows changes in contract terms from time to time. In the first phase, the Employment Contract
offers a tax holiday facility. This no longer applies to subsequent Employment Contracts, as mining companies complain.

This research is important because it can provide a better understanding of the role of regulation in driving investment and economic growth. In addition, the findings from the study can provide guidance for policymakers to improve investment regulations and create a more conducive business environment for investors, which in turn can contribute to better economic growth in Indonesia. The absence of other research on the dynamics of investment regulation: a legal review of Law no. 25 of 2007 on investment in Indonesia in overcoming the "investment ghost" is a novelty in this study. This research aims to provide an overview of how investment regulations in Indonesia have changed and evolved in an effort to address the "investment ghost"

METHOD

This study used qualitative research methods. Qualitative research methods are research methods used to examine social phenomena that are complex and cannot be quantitatively measured. Qualitative research aims to understand the meaning and interpretation of these social phenomena (Ervianto, 2018). The type of data used in this study is secondary data. The data in this study was collected through a literature study of various laws and regulations related to investment, scientific literature discussing investment regulations, and documents related to the implementation of Law No. 25 of 2007 concerning Capital Investment in Indonesia. The data that has been collected is then analyzed using three stages, namely data reduction, data presentation and conclusion drawing which are described as follows:

1. Data Reduction Stage
   At this stage, data collected from various sources will be compiled, analyzed, and focused on information relevant to the research objectives. These data will then be reduced to a more focused one, by extracting key concepts, patterns, or changes in investment regulation.

2. Data Presentation Stage
   Once the data is reduced, the information found will be presented in a systematic and structured manner. This involves structuring the information into a logical and adequate sequence, thus enabling the reader to understand the development of investment regulations in Indonesia, the constraints that exist, and the challenges faced.

3. Conclusion Drawing Stage
   The final stage is drawing conclusions based on data analysis that has been carried out. The results of this study will be used to formulate conclusions about the dynamics of investment regulations in Indonesia, identify obstacles in the implementation of the Investment Law, and find solutions or recommendations that can help overcome the "investment ghost" that may exist.

RESULTS AND DISCUSSION

Development is an activity that must be carried out by the state in order to advance the nation and the welfare of its people. In the framework of implementing development, one of the targets in the development process is economic growth. The two main production factors determining economic growth are capital and labor (Murti & Mathez-Stiefel, 2019). Economic growth is one of the indicators of successful development in an economy. The well-being and progress of an economy is determined by the magnitude of growth indicated by changes in
national output. Changes in output in the economy is a short-term economic analysis. In general, economic growth theory can be grouped into two, namely classical economic growth theory and modern economic growth theory. In classical economic growth theory, analysis is based on belief in the effectiveness of free market mechanisms (Ma'ruf & Wihastuti, 2008).

Economic growth in the long run cannot be separated from investment. The investment is in the form of domestic investment (PMDN) and Foreign Investment (PMA), with the existence of PMA and PMDN can make a major contribution to the development of developing countries (Alice et al., 2021). Foreign investment or FDI has a greater impact on economic growth. Domestic investment chooses results that have no effect on economic growth. This is because PMDN is not the only factor that plays a major role in increasing economic growth in Indonesia (Astuti & Ayuningtyas, 2018).

In investment activities, there is what is called the capital market. The capital market has an important role in supporting a country’s economy because the capital market has two functions at once, namely the economic function and the financial function. The capital market is a place where excess funds (investors) meet with those who need funds (companies). The treatment of Investment is mentioned in Article 6 paragraphs (1) and (2) of the Law on Fithriah, (2017), namely: (1) The Government gives equal treatment to all Investors from any country who carry out Investment activities in Indonesia in accordance with the provisions of laws and regulations. (2) The treatment referred to in paragraph (1) shall not apply to investors from a State who obtain privileges under an agreement with Indonesia.

The tasks of capital market regulation according to (Mustapha et al., 2019) are as follows.

a. Establish implementing regulations from Law Number 21 of 2011 concerning the Financial Services Authority (UUOJK);
b. Establish laws and regulations in the financial services sector;
c. Establish OJK regulations and decisions;
d. Establish regulations regarding supervision in the financial services sector;
e. Establish policies regarding the implementation of OJK duties;
f. Establish regulations regarding procedures for issuing written orders to financial service institutions and certain parties;
g. Establish regulations regarding procedures for determining statute managers in financial service institutions;
h. Establish organizational structure and infrastructure, and manage, maintain, and administer wealth and liabilities; and
i. Establish regulations regarding procedures for imposing sanctions in accordance with the provisions of laws and regulations in the financial services sector.

An investor needs a company as a means of investing whereas, a company needs investors as a means of obtaining funds (Yusuf et al, 2021). Investors are parties who invest capital in the form of money they have in companies that have issued securities or securities in the capital market and circulate these securities on the stock exchange in the hope of getting benefits in the form of income in the future in a certain period of time (Dimyati, 2014). The presence of the capital market has an important role for investors, both individual investors and business entities. This is because, investors who have excess funds can channel their funds to invest in entrepreneurs, so that entrepreneurs can get additional funds that can be used to expand their business networks through investors in the capital market. Since the opening of the Indonesia
Stock Exchange in 2007, investment in the capital market has become one of the alternative forms of investment that is easily accessible and often used by the wider community. This is evidenced, by the increasing number of investors in Indonesia and the high number of stock trading on the Indonesia Stock Exchange (Lisyani et al, 2019).

Investment is a number of funds or other resources carried out at this time, with the aim of obtaining a number of benefits in the future. Investment can also be defined as the delay of current consumption to be used in efficient production over a certain period of time in the hope of providing income or profit (Fernando, 2022). Investment is an important part of accelerating the economic development of a country or region. Investment itself in Indonesia has investments that are run by the government and there are also investments owned by private parties. Government investment comes from government savings as well as from foreign aid. Meanwhile, private investment is distinguished between foreign investment which is often called Foreign Investment (PMA) and domestic investment or Domestic Investment (PMDN) (Ningsih et al, 2020).

According to Senduk dakam Kurniawan (2016) that investment products available in the market include:

1. **Savings**
   
   Savings here in the sense of saving money in the Bank. The bank will keep the investor's money for a certain period according to the investor's wishes. Investors are free to pick it up at any time either in person at a teller or through electronic transactions. The value in our savings can run out quickly because it is often taken for savings purposes is the easiest, least risky investment, but has very little profit.

2. **Deposit**

   A deposit is to keep money in a bank for a certain period. Money that has been deposited in the form of deposits can only be taken when it is due. If not yet due is taken, then there will be a penalty for the deal that has been done. This type of investment also has a low profit because the risk is small. Investors do not need any action except deposit money at the beginning. This investment has a greater profit than savings because investors are bound by a certain period.

3. **Mutual Funds**

   Mutual funds are a place to raise funds collectively. The funds collected will be managed by Investment Managers who will be invested in other types of investments. If you get a profit or loss, it will be divided equally for investors. The types are money market mutual funds, fixed income mutual funds, stock mutual funds, and mixed mutual funds.

4. **Bonds**

   Bonds are debentures, which are proof that investors give debt to a particular company or government. The indebted party will give interest for a certain period of time. The term of repayment of debt is more than one year. The safest bonds are bonds or bonds from the state.

5. **Stocks**

   A stock is a company's offer to investors to invest investors' money in them. This stock is volatile depending on the stock market. Usually if the company is healthy and has a positive movement, then the value of the stock will rise, and vice versa.

6. **Gold**

   Currently, gold is gaining popularity in making small and large investments. This gold varies, there are gold bars, coins, or jewelry.
7. Properties

The property here can be said to be land, houses, shophouses, etc. Every land that belongs to investors is property whether the land has been established or not. The nature of the property is also similar to gold, that is, the longer the price rises. But the difference is that the property is not as liquid as gold. Property cannot be quickly sold at the price as desired.

Investment decisions in the capital market have a certain level of risk. The increase in value resulting from investing is the goal of investors to invest their assets in the capital market, but the investment does not guarantee profits (Sakinah et al, 2021). Utility theory, developed by von Neumann and Morgenstern, says that (1) investors are very rational, (2) agree with complex choices, (3) dislike risk and, (4) maximize wealth. Thus, an investor needs a rational decision when investing. Here are the stages of rational decision making (Christanti &; Mahastanti, 2011). 1) define the problem; 2) identify decision criteria; 3) allocate bots for each criterion; 4) develop alternatives; 5) evaluate each alternative; and 6) choose the best alternative (Sumani et al, 2012). Some sources of risk that affect the amount of risk of an investment according to Tambunan (2020) are as follows.

1. Interest rate risk.

Changes in interest rates can affect the variability of an investment's return. If interest rates rise, investment returns related to interest rates (e.g. deposits) will also rise. As a result, investor interest will move from stocks to deposits. So if interest rates increase, then the stock price will fall, and vice versa;


Overall market fluctuations can affect the variability of an investment's return. Market fluctuations are usually indicated by changes in the stock market index as a whole. Market changes are influenced by factors such as economic recessions, riots, or political changes;

3. Inflation risk.

Rising inflation will reduce the purchasing power of the invested rupiah. If inflation increases, investors usually demand an additional inflation premium to compensate for the decline in purchasing power they experience;

4. Business risk is the risk in running the business of a type of industry.

Investment itself is all forms of investment activities, both by domestic investors and foreign investors to do business in the territory of the Republic of Indonesia (Abib et al, 2016). Investment aims to:
a. Increase economic growth;
b. Creating jobs;
c. Increasing sustainable and environmentally sound economic development;
d. Improve the competitiveness of the business world;
e. Increasing technological capacity and capability;
f. Encouraging people's economic development;
g. Processing the potential economy into real economic strength by using funds originating both from within the country and abroad;
h. Improve people's welfare.

In addition, in Law Number 25 of 2007 concerning Capital Investment (UUPM) it is stated that: "The purpose of investment must be part of the implementation of the national economy and be placed as an effort to increase national economic growth, create jobs, increase sustainable
economic development, increase national technological capacity and capability, encourage the people's economy, process potential economic potential into a real economy using funds originating from within the country and from abroad, as well as improving community welfare" (Arliman, 2018).

Investment activities or investment as one of the sectors driving economic growth in Indonesia must be maintained and increased growth by the Government. In Indonesia, investment policy is affirmed through Law Number 25 of 2007 concerning Capital Investment which was declared effective in the promulgation on April 26, 2007. Prior to the birth of this Law, there were other laws that regulated, namely Law Number 1 of 1967 (amended and supplemented by Law Number 11 of 1970, concerning Investment Law 1 hereinafter referred to as Foreign Investment Law (UUPMA)) and Law Number 6 of 1968 (amended and supplemented by Law Number 12 of 1970 concerning Domestic Investment Law (UUPMDN)) (Andani, 2019). Law Number 25 of 2007 concerning Capital Investment is expected to provide guarantees of legal protection and certainty while still paying attention to national economic interests based on economic democracy in accordance with the ideals of state life (Soediro, 2017).

According to Marbun (2021), several important things that must be met to attract foreign capital to a country include: (a) fixed and consistent regulations or policies that do not change too quickly and can guarantee legal certainty, because the absence of legal certainty will make it difficult for their long-term business planning; (b) convoluted licensing procedures that may result in high costs; (c) guarantees for their investments and legal protection of investors' property rights; and (d) facilities and infrastructure that can support the implementation of their investments properly.

In Indonesia, the capital market has increased very rapidly, especially after the government issued various regulations in the financial and banking sectors, including the capital market. With the increasing development of the capital market in Indonesia, investor protection is needed. Investor protection is one of the most important things. Less than maximum protection for investors will cause reluctance for investors to invest in the Capital Market. The lack of investor interest will result in sluggish market activities and the function of the Capital Market will not develop. One of the important ones is legal protection. Legal protection is closely related to aspects of justice (Purboningtyas, & Prabandari, 2019). Law enforcement in the form of legal protection in business economic activities, especially the capital market, cannot be separated from the legal aspects of the company, especially regarding limited liability companies, because legal protection in the capital market involves capital market participants, especially issuers, investors and supporting institutions for capital market activities where these parties are dominated by legal subjects in the form of legal entities in the form of limited liability companies. Legal protection or legal protection is an activity to maintain or maintain the community in order to achieve justice.

The legal regulation of nationalization of foreign investment companies in Law Number 25 of 2007 has relevance to the concept of article 33 paragraphs (2) and (3) of the 1945 Constitution, which has the essence that the branch of production is important for the state and controls the lives of many people controlled by the state and used for the greatest prosperity of the people. Legal protection provided by the Government of Indonesia to investors that aims to create a healthy investment climate is divided into two forms of legal protection, namely preventive legal protection and repressive legal protection. Preventive legal protection is provided to prevent
disputes from occurring. The government guarantees legal protection to investors through Law Number 25 of 2007 concerning Capital Investment (UUPM). Law Number 25 of 2007 is expected to be a limitation as well as a signpost in the implementation of an obligation, where these foreign investors have a number of obligations that must be fulfilled as stipulated in Article 10 and Article 15 (UUPM), while for guarantees of their rights, it has been regulated as stated in Article 6 regarding the provision of equal treatment to all investors, Article 8 and Article 9 related to provisions regarding asset transfer, transfer and repatriation in foreign currencies, then Article 14 and Article 18 related to investors' rights to obtain certainty of rights, law, protection and facilities for ease in carrying out investment activities. Furthermore, in order to guarantee preventive legal protection, the government and foreign investors can also enter into bilateral investment treaties (BIT), where this BIT aims to provide protection to foreign investors from illegitimate, arbitrary and discriminatory nationalization actions that cause a decrease in foreign investors' interest in investing in host countries (Umam & Febriana, 2023).

Thus, Law No. 25 of 2007 concerning Capital Investment (UUPM). This UUPM is designed by adopting important principles such as:

**a. Transparency (openness)**

As an alternative investment, the capital market is based on one of the general principles in investing, namely the obligation to carry out information disclosure, which is one of the principles that apply universally in the international capital market so that it is an obligation for all parties in capital market activities to do so, especially for Issuers or Public Companies that sell their securities to the public. The obligation to implement the principle of information disclosure has been expressly accommodated and regulated in the laws and regulations in the field of capital markets in Indonesia, and is mandatory so that it binds the Issuer. The implementation of the principle of information disclosure for Public Companies or Issuers is one form of the implementation of Good Corporate Governance (GCG) which is another principle in the capital market that must be implemented by Public Companies (Widyastuti et al, 2020).

**b. Ease of Doing Business**

The ease of doing business, supported by the use of information and technology, makes the investment process faster, recorded in the system, efficient, and in accordance with the development of modern society (Sinaga, 2017).

**c. Healthy Business Competition**

The desired business competition is certainly not arbitrary and arbitrary competition that does not pay attention to the various parties involved, especially the community, this is in line with what is desired by Article 33 of the 1945 Constitution which basically wants a people's economy in the business world and others, but even though the mandate of this Constitution has existed since the first birth of Indonesian independence, in fact the rules or legal regulations regarding competition This business could only be formed after the collapse of the New Order, namely in 1999. The investment aspect of investors is less well touched, which is why it is necessary to study more deeply about it to see the legislative aspects regarding the prohibition of monopolistic practices and unfair business competition in investment, so that later it can be seen how the influence of business competition law aspects regulates business activities in investing (Hidayat et al., 2022).

To avoid unfair competition, Law Number 5 of 1999 concerning the Prohibition of Monopoly Practices and Unfair Business Competition was born for approximately 12 (twelve) years, has not
provided progress for the business world to strive optimally for the creation of fair competition in a particular market, which encourages business development carried out by business actors/businesses to be able to compete with their competitors effectively and efficient and the Business Competition Supervisory Commission (KPPU) as the supervisory agency of the implementation of the Antimonopoly Law can provide effectiveness in law enforcement for business people who violate this law. Although in its implementation, KPPU still has many obstacles from several decisions decided by KPPU against business people who commit fraud that is not in accordance with the Antimonopoly Law, KPPU's decision can at least provide a deterrent effect for business people who commit fraud (Syamsah & Gilalo, 2015).

CONCLUSION

In an effort to overcome the challenge of the "investment ghost," the Indonesian government has taken various steps through Law No. 25 of 2007 on Capital Investment (UUPM). This UUPM is designed by adopting important principles such as transparency, ease of doing business, and fair business competition. Through the UUPM, the government seeks to give greater authority to local governments in managing investment affairs. This is expected to speed up the investment licensing process and improve coordination between the central and local governments. As a result, UUPM has succeeded in creating a more conducive and attractive investment environment for investors, having a positive impact in overcoming obstacles that have been haunting investment in Indonesia.

Further research can make a comparison between Law No. 25 of 2007 with investment regulations in other countries that also seek to attract foreign investment. This can provide deeper insight into how Indonesia is in the global competition in terms of attracting investment. The next researcher can also involve an analysis of the impact of Law No. 25 of 2007 on investment flows both from within the country and abroad.

BIBLIOGRAFI


