

ABSTRAK

ASLIHATIN ZULIANA (2310622043). *Keabsahan Kontrak Konstruksi Penunjukan Langsung Oleh BUMN Kepada Anak Perusahaannya Pasca Berlakunya Undang-Undang Cipta Kerja (Studi Benturan Kepentingan Pada Pengadaan Jasa Konsultansi Konstruksi Di Lingkungan PT PLN (Persero)).* Dibimbing oleh Iwan Erar Joesoef sebagai Pembimbing Utama dan Suherman sebagai Pembimbing Pendamping.

Penelitian ini bertujuan untuk menganalisis formalitas hukum kontrak Jasa konstruksi melalui penunjukan langsung kepada perusahaan terafiliasi serta mengkaji keabsahan kontrak payung pra dan pasca disahkannya Undang-Undang Cipta Kerja. Fokus penelitian ini menjawab pertanyaan kritis mengenai mekanisme hukum formal yang mengatur perjanjian kesepakatan harga satuan pekerjaan jasa konsultansi konstruksi jangka panjang dan amandemennya berdasarkan peraturan pengadaan yang telah diubah melalui Undang-Undang Cipta Kerja. Penelitian menggunakan metode yuridis normatif mengidentifikasi secara sistematis formalitas hukum dan keabsahan kontrak nomor 0217.PJ/DAN.01.02/B0104000/2020 terutama berdasarkan Undang-Undang Nomor 2 tahun 2017 tentang Jasa Konstruksi beserta perubahannya dan peraturan pelaksanaannya, serta sumber hukum primer lainnya termasuk ketentuan perundang-undangan, peraturan pemerintah, dan kerangka tata kelola perusahaan, disamping bahan hukum sekunder dan komentar doktrinal. Analisis ini mengungkapkan bahwa penunjukan langsung sebelum Undang-Undang Cipta Kerja telah mematuhi keabsahan kontrak hukum perdata dan peraturan sektoral terkait Jasa Konstruksi. Ketentuan peralihan dan asas non-retroaktif mempertahankan keabsahan perjanjian Kesepakatan Harga Satuan melalui penunjukan langsung kepada perusahaan afiliasi. Sementara amandemen perjanjian yang bersifat non-substantif atau administratif tetap sah menurut ketentuan hukum perdata yang berlaku, bukan hanya semata-mata untuk mempertahankan *continuity of contract* tetapi juga nilai utilitarianisme yang terkandung di dalamnya. Penelitian ini menjelaskan bahwa mekanisme penunjukan langsung mencapai justifikasi hukum melalui mandat konstitusional dan hierarki legislatif, sekaligus memberikan manfaat utilitarian melalui peningkatan efisiensi pengadaan pada pekerjaan atau jasa dengan keahlian khusus. Temuan ini berkontribusi pada wacana ilmiah tentang tata kelola BUMN terkait bagaimana Undang-Undang Cipta Kerja berinteraksi dengan hukum kontrak dan tata kelola perusahaan, sekaligus menekankan pentingnya perlindungan konflik kepentingan yang kuat berdasarkan Undang-Undang Anti Monopoli dalam mencegah formalisme prosedural mengaburkan hasil untuk kepentingan umum yang substantif.

Kata kunci: Penunjukan langsung, Jasa Konstruksi, Afiliasi, Cipta Kerja, Monopoli

ABSTRACT

ASLIHATIN ZULIANA (2310622043). *The Validity of Construction Contracts for Direct Appointment by State-Owned Enterprises (SOEs) to Their Subsidiaries Post the Enactment of the Omnibus Law (A Study of Conflicts of Interest in the Procurement of Construction Consultancy Services within PT PLN (Persero)).* Supervised by Iwan Erar Joesoef as the Main Supervisor and Suherman as the Co-Supervisor.

This study aims to analyze the legal formalities of construction service contracts executed through direct appointment to affiliated companies and to examine the validity of umbrella contracts both prior to and following the enactment of the Omnibus Law. The focus of this research is to answer critical questions regarding the formal legal mechanisms governing unit price agreements for long-term construction consultancy services and their amendments, based on procurement regulations amended by the Job Creation Law. The study uses a normative juridical method, systematically identifying the legal formalities and the validity of Contract No. 0217.PJ/DAN.01.02/B0104000/2020, primarily based on Law No. 2 of 2017 on Construction Services, including its amendments and implementing regulations, as well as other primary legal sources, including statutory provisions, government regulations, and corporate governance frameworks, alongside secondary legal materials and doctrinal commentary.

This analysis reveals that the direct appointment before the enactment of the Job Creation Law complied with the validity requirements of civil law contracts and relevant sectoral regulations related to construction services. The transitional provisions and the principle of non-retroactivity uphold the validity of the unit price agreement executed through direct appointment to affiliated companies. Meanwhile, amendments to agreements that are non-substantive or administrative remain valid according to applicable civil law provisions, not only to maintain the continuity of the contract but also to preserve the utilitarian value embedded within it.

This study explains that the direct appointment mechanism achieves legal justification through constitutional mandates and legislative hierarchy, while also delivering utilitarian benefits through enhanced procurement efficiency for specialized services or work. These findings contribute to the academic discourse on SOE governance by explaining how the Job Creation Law interacts with contract law and corporate governance, while emphasizing the importance of strong conflict-of-interest protection under anti-monopoly law in preventing procedural formalism from obscuring substantive outcomes for the public interest.

Keywords: *Direct appointment, Construction services, Affiliation, Job Creation Law, Monopoly*