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LEGAL CONSEQUENCES FOR MSME'S FOR NON-HALAL CERTIFIED FOOD AND BEVERAGE PRODUCTS (CASE STUDY OF MSMES IN PEKIRINGAN)

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Abstract: Halal food and beverage products are important, and business actors must protect consumers following the mandate of the Consumer Protection Law and the Halal Product Assurance Law. The government has issued a free halal certification policy until October 17, 2024. MSME actors must have it, one of which is for MSME actors in food and beverage products.

Suppose they do not have a halal certificate until that date. In that case, MSME actors will be sanctioned by Government Regulation Number 39 of 2021 concerning implementing the Halal Product Assurance Sector. The author uses an empirical juridical research method by identifying the law, seeing the effectiveness of law enforcement in the community, and reviewing the legal consequences of its implementation, especially in the Pekiringan Village area, the economic center of Cirebon City. From the results of this study, the author obtained data that more MSME actors in food and beverage products in Pekiringan Village do not have halal certificates in distributing their products. Therefore, there will be legal consequences in the form of sanctions for MSME actors if they do not have a halal certificate until the date determined by the current regulations.

Keywords: Legal Consequences, Food and Beverage Products, Halal Certificates, MSMEs

INTRODUCTION

One of the basic human needs is food and drink, which function as a source of energy to carry out all activities and are also one of the main factors for human survival. At this time, there is a wide variety of types of food and beverages circulating in the community for consumption, both processed and fast food.

Based on data from the RISSC (The Royal Islamic Strategic Studies Centre) report titled *The Muslim 500: The World's 500 Most Influential Muslims 2024*, Indonesia is one of the countries with the largest Muslim population in the world. RISSC noted that the number of Muslim populations in Indonesia in 2023 has been recorded at 240.67 million people. When viewed from the total population of Indonesia, this figure is equivalent to 86.7% of the national population, which totals 277.53 million people.¹ As the country with the most Muslim consumers, every producer in the Indonesian region must ensure the halalness of products when marketing and selling them. Currently, the development of the food industry in the Indonesian region has influenced various new processing methods and techniques, so the products produced are not necessarily guaranteed to be halal.²

In Law Number 8 of 1999 concerning Consumer Protection, in Article 8 paragraph (1) Letter h, the article's content explains that it is prohibited to trade in goods or services that are still not under the provisions of halal production to be traded. From this regulation, business actors must have a halal label for the products they distribute.

Furthermore, Article 4 of Law Number 33 of 2014 concerning Halal Product Assurance requires having a halal certificate for products distributed in Indonesian territory. Based on this regulation, the legality regarding the products traded must be halal and have a halal certificate.³ Then, Article 48, number 2 emphasizes precisely the amendment to Article 4A of Law Number 6 of 2023 concerning the Stipulation of Government Regulations in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, which emphasizes that in this article, the government requires micro, small, and medium enterprises to have halal certificates.

The obligation to have a halal certificate is also in the Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning implementing the Halal Product

¹ Cindy Mutia Annur, '10 Countries with the Most Muslim Populations in the World 2023, Indonesia Leads!', *Kataboks.Katadata.Co.Id*, 2023<<https://databoks.katadata.co.id/datapublish/2023/10/19/10-negara-dengan-populasi-muslim-terbanyak-dunia-2023-indonesia-memimpin>> [accessed 31 March 2024].

² Ahmad Baihaki, Rabiah Al Adawiah, and Naffa Rizky Hermawati, 'Legal Protection for Consumers on Halal Product Guarantees in MSME Food and Beverages in Bekasi City', *Krtha Bhayangkara*, 16.2(2022),31538<<https://doi.org/10.31599/krtha.v16i2.1501>>.

³ Evalina Alissa, Faizah Bafadhal, and Diana Amir, 'Consumer Protection of Micro, Small, and Medium Enterprises (MSMEs) Packaged Food Products that Are Not Halal Certified in Jambi City', *Scientific Journal of Batanghari University of Jambi*, 23.3 (2023),2980<<https://doi.org/10.33087/jiubj.v23i3.4487>>.

Assurance Sector. As seen in Article 139 Paragraph (2) of Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector, the regulation requires three types of products to be halal certified. The product group consists of food and beverage products, raw materials, food additives, auxiliary ingredients for food and beverage products, and finally, products from slaughter products and slaughter services.⁴ If you look at the three groups of products that must be halal certified, one of which is food and beverage products, MSME actors must have a halal certificate. In this case, it has been emphasized in Article 140 of Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector that the halal certificate-making program is carried out for free starting from October 17, 2019, to October 17, 2024, one of which is for MSME actors, including food and beverage products that have not been halal certified.

If MSME actors, one of these food and beverage products, have not been halal certified by the date set, they will be subject to sanctions according to the regulation. This is so that the food and beverage products of MSME actors are guaranteed quality, health, comfort, security, and safety to protect consumers who consume their products. With the regulation issuance, there will be legal consequences for MSME actors in food and beverage products.

Related to legal consequences, according to Soeroso, legal consequences are a result of actions taken to obtain a result of actions carried out by legal subjects. The purpose of the effect is the effect regulated by law, while the purpose of the action is the action carried out is a legal action by the applicable rules⁵. If viewed from the meaning of legal consequences, it can be understood that the consequences of this law arise after the existence of regulations that govern legal subjects. However, the legal consequences can also be in the form of sanctions if the legal subject violates the regulations that have been regulated, such as the legal subject in question being an MSME actor.

Therefore, the author studied MSME actors in food and beverage products in Pekiringan Village, Kesambi District, Cirebon City. This area is one of the superior economic centers and can be said to be the heart of Cirebon City. This study aims to find out government policies through regulations that have been passed regarding the obligation of halal certificates for MSME actors, one of which is whether food and beverage products in Pekiringan Village have been running properly or vice versa.

Referring to the above legal events, the author is interested in carrying out research activities on what are the legal consequences if MSME actors do not have a halal certificate according to applicable regulations by being associated with MSME actors in food and beverage products in Pekiringan Village.

METHOD

The approach used in this study is the empirical juridical method. According to Soerjono Soekanto, empirical juridical research is used to identify the law or law in a book and look at the effectiveness of law enforcement in society.⁶ The data collection method is qualitative, using interviews and observations. From this type of research, the author went directly to the field to find out whether MSME actors in food and beverage products in

⁴ Ni LuH Anggela, 'Jokowi Requires These 3 Product Groups to Be Halal Certified as of October 17, 2024', *Ekonomi.Bisnis.Com*, 2024 <<https://ekonomi.bisnis.com/read/20240203/12/1737951/jokowi-wajibkan-3-kelompok-produk-this-certified-halal-per17october2024>>[accessed March 31, 2024].

⁵ R. Soeroso, *Introduction to Law* (Jakarta: Sinar Grafik, 2006) p.295

⁶ Burhan Ashsof, *Legal Research Methods* (Jakarta: Rineka Cipta, 1998). p.95

Pekiringan Village already have a halal certificate and to determine the legal consequences if they do not, according to applicable regulations.

RESULTS AND DISCUSSION

Implementation of Halal Certification for MSME Actors in Food and Beverage Products in Pekiringan Village

This research activity aims to find out how to implement halal certification for MSME actors in food and beverage products in the Pekiringan Village area. Based on the results of direct *research (door to door)* to the place of MSME actors in Pekiringan Village, the author has recorded a total of 55 (fifty-five) MSME actors in food and beverage products.

The following is the data from the research results for MSMEs selling food and beverage products in Pekiringan Village, both those with and without halal certificates.

Data on MSMEs for food and beverage products already have halal certificates.

Table 1. MSMEs That Already Have Halal Certificates in Pekiringan Village

Business Products	Type of Business	Number of Enterprises
Fruit Ice	Micro	1
Meatball Noodles	Knowing	1
Mixed Rice	Micro	1

If you look at the data above, only three MSME actors in food and beverage products already have halal certificates, and the rest still do not. Regarding the types of food and beverage products distributed by micro, small, and medium business actors, they have gone through a processing process, from which there are ingredients and production tools. The materials used in the production process must be guaranteed to be halal, and the tools must be clean and hygienic according to the halal standardization of halal products.

Regarding the standardization of halal products in Indonesia, it is explained in Law Number 33 of 2014 concerning Halal Product Assurance contained in Articles 17 to 20, which states that the materials needed in the halal product process consist of raw materials, processed materials, and additional materials, as well as auxiliary materials. These materials come from plants, animals or microbes, or materials that are chemically, biologically or genetically engineered. The ingredients used above are halal, except for those that are prohibited, such as blood, pigs, carcasses, and animals that are slaughtered not under Islamic law. The materials derived from plants, microbes, and chemical, biological, or engineering processes are halal, except for those that endanger the health of people who consume them or are intoxicating and are prohibited if the manufacturing process is mixed, contained, or contaminated with prohibited substances.

Meanwhile, regarding the standardization rules related to halal production process tools, it has been affirmed in Article 11 of Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector, which states that processing tools are not mixed alternately by business actors for the use of non-halal products, for cleaning tools as a means of processing, it must be distinguished between halal and non-halal, For the maintenance

of equipment as a means of processing, of course, there is a difference between halal and non-halal, and has a special place for storage for halal and non-halal.

Based on the halal product standardization regulations above, if the products that have not been certified halal are food and beverage products, it will cause suspicion and doubt among consumers to buy them. In addition, if it is proven that one of the food and beverage products lacks elements of security, health, safety, and comfort, this can be detrimental to consumers who will consume it.

The author conducted interviews and observations with MSME actors on food and beverage products in Pekiringan Village during the research process. There are several responses from these MSME actors because they do not have a halal certificate. First, Mrs. Bintar, an MSME producer of bread pudding and sour turmeric herbs in Pekiringan Village, explained that she did not have a halal certificate because she had guaranteed hygiene from the tools and materials used while making the product.

Data on MSMEs for food and beverage products do not yet have halal certificates.

Table 2. MSMEs That Do Not Have Halal Certificates in Pekiringan Village

Business Products	Type of Business	Number of Enterprises
Mixed Rice	Micro	15
Meatball	Micro	1
Yellow Rice	Micro	3
Seblak	Micro	2
Chips	Micro	1
Lotek	Micro	1
Coconut Ice	Micro	2
Fruit Ice	Micro	6
Mitang	Micro	1
Sour Turmeric	Micro	1
Toast	Micro	1
Bread Pudding	Micro	1
Ketoprak	Micro	1
Fried	Micro	12
Bakpau	Small	1
Green Bean Porridge	Micro	1
Es Doger	Micro	1
Rujak Shavings	Micro	1

Second, Mr. Uud, a fried food seller in Pekiringan Village, said that he did not have a halal certificate because he was not informed about the importance of halal certificates and was afraid that he would be charged a large fee for its manufacture. Most of the responses

of other food and beverage MSME actors are still the same as those of the two business actors above.

The results of coordination with the Pekiringan Village show that the village had held a socialization activity about halal certificates for MSME actors in its village. However, in its implementation, only a few MSME actors were present in the socialization activity.

Based on the data from this study, it can be said that the reason why food and beverage MSME actors in Pekiringan Village do not have a halal certificate is due to a lack of awareness of the importance of halal certificates for their business products and considering that the tools and materials used during the production process are guaranteed quality by ignoring the standardization of halal-certified production processes.

Legal Consequences for MSME Actors in Food and Beverage Products If They Do Not Have a Halal Certificate

After the staging period of halal-certified obligations for food and beverage products, namely from October 17, 2019, to October 17, 2024, there are only food and beverage products that have been halal-certified that are entered, circulated, and traded by people in Indonesia. Therefore, sanctions are imposed for MSME actors, including food and beverage products that have not been certified halal. The sanction is affirmed in Article 149 Paragraph (2) of Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning implementing the Halal Product Assurance Sector, stating that administrative sanctions will be imposed. Administrative sanctions imposed on MSME actors include written warnings, administrative fines, and revocation of halal certificates and withdrawal of goods from circulation.

The regulation explains that the sanctions imposed on MSME actors in food and beverage products can depend on the level of violation they commit. Judging from the reasons why MSME actors do not have halal certificates on their products, the Halal Product Assurance Agency (BPJPH) can impose administrative sanctions in the form of:

a. Written warning

In accordance with Article 161 Paragraph (1) of Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector, MSME actors who do not have a halal certificate and have not registered one are given a written warning.

b. Administrative fines

This administrative fine applies to business actors, including MSME actors who do not have a halal certificate. The administrative fine in question is based on Article 149 Paragraph (6) of Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning implementing the Halal Product Assurance Sector, which is a maximum of IDR 2,000,000,000.00 (two billion rupiah). In this case, if within 14 (fourteen) days since it is determined that there is no follow-up from MSME actors, BPJPH will impose sanctions in the form of administrative fines and withdraw products distributed by MSME actors by Article 161 Paragraph (2) of the Government of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector.

c. Revocation of halal certificates and withdrawal of goods from circulation.

Based on Articles 162 and 163 of Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector, this sanction applies if business actors, including MSMEs, who do not have a halal certificate and have received written warnings and administrative fines but have not made improvements. This sanction is to withdraw

products distributed by MSME actors for 60 (sixty) days since this sanction was established.



Figure The Actiivty of Halal Certification Survey

The implementation of this regulation aims to provide legal certainty and maintain applicable rules so that products that enter, circulate, and are traded by the public in Indonesia are guaranteed to be halal.⁷ In relation to this regulation, halal certificates are mandatory for business actors because it is a form of responsibility for products distributed to the public.

According to the Head of the Halal Registration and Certification Center of the Halal Product Assurance Agency (BPJPH) of the Ministry of Religious Affairs, Siti Aminah, at the Halal Certification event in Mataram, West Nusa Tenggara through the television broadcast Coverage 6, that this halal certification is mandatory for all types of businesses in Indonesia, both from micro, small, and medium enterprises and even large-scale. For

⁷ Salman Hikam and Karimatul Khasanah, 'Analysis of the Maslahah Principle Towards Government Regulation (PP) No. . 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector', 03 (2023).

micro, small businesses and do not have costs, it will be facilitated with BPJPH (Halal Product Assurance Agency), including LP3H (Halal Product Process Assistance Agency) by making halal certification for free through *the Self Declare program*, not including processed meat, because processed meat will be charged regularly or for a fee. However, for large, and medium actors, there is no waiver. This means that administrative sanctions will still be imposed if they exceed October 17, 2024 by Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector⁸.

About the implementation of the above regulations, it is important for MSME actors, one of which is food and beverage products in Pekiringan Village to be halal certified. Suppose it is based on the results of field data on MSME actors in food and beverage products in Pekiringan Village. In that case, it can be stated that the legal consequences for micro, small and medium business actors who are not halal certified will be subject to administrative sanctions if they pass October 17, 2024.

CONCLUSION

Based on the results of field data on MSME actors in food and beverage products obtained in Pekiringan Village, only 3 (three) out of 55 (fifty-five) MSME actors have halal certificates, this is due to a lack of awareness of the importance of halal certificates, most of them consider that all materials and tools used during the production process are guaranteed hygiene and these MSME actors obtain little information. This is not in accordance with the standardization of halal products based on Law Number 33 of 2014 concerning Halal Product Assurance and Law Number 8 of 1999 concerning Consumer Protection, so it can be said that the product has not guaranteed safety, safety, health and comfort for consumers who consume it.

Therefore, it can be said that the legal consequences for MSME actors who do not have a halal certificate until October 17, 2024 will be subject to administrative sanctions by Article 149 paragraph (2) of the Government Regulation of the Republic of Indonesia Number 39 of 2021 concerning the Implementation of the Halal Product Assurance Sector, namely administrative sanctions in the form of written warnings, administrative fines in the form of fines of IDR 2,000,000,000 (two billion rupiah), even to the revocation of halal certificates and/or the withdrawal of goods from circulation.

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