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Cancellation of Article 55 of The Public Accountant Law by The Constitutional Court Decision

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Abstract

The Public Accountant profession could be punished without a Constitutional Court Decision. Because it can be punished, the Public Accountant Professional Association filed a lawsuit with the Constitutional Court with rational reasons that form the basis of the petition. The research conducted is normative legal research. The results of the study state that Public Accountants are in a subordinate and minor position due to the lack of protection for the exercise of their profession, given the high legal threat. Even if it is true that the intent of the formulation of Article 55 Letter a of the Public Accountants Law is to protect the public interest from the possibility of falsification or fraud perpetrated by an Accountant, the public's interests have been adequately protected by the provisions of the Criminal Code (delict of counterfeiting or fraud), so, therefore, the provisions of Article 55 letter a The law is an exaggerated and even fantastic provision. Thus, Article 55 letter a of the law creates uncertainty in the law and contradicts the principle of lex certa, which is the basic principle in criminal law of the inclusion of criminal sanctions as determined by Articles 55 and Article 56 of the law in the perspective of humanistic criminal law is imprecise and irrational. So, it is essential to regulate the accounting profession, which should be the basic idea of strengthening the profession, which is used as a standard or orientation point of view, reduced by the criminalization in Article 55 letter b, which creates fear in the world of accountants.

Keywords: public accountant, cancellation, Constitutional Court's decision

Abstrak

Profesi Akuntan Publik dapat saja dipidana jika tidak ada Putusan Mahkamah Konstitusi. Oleh karena dapat dipidana itulah, maka ikatan profesi Akuntan Publik mengajukan gugatan ke Mahkamah dengan Konstitusi Alasan-Alasan Rasional Yang Menjadi Dasar Permohonan. Penelitian yang dilakukan adalah penelitian hukum normatif (normative legal research). Hasil penelitian menyatakan bahwa Akuntan Publik akan dalam posisi sub ordinat dan minor akibat kurang adanya perlindungan bagi pelaksanaan profesinya mengingat ancaman hukum yang tinggi. Jika pun benar maksud perumusan Pasal 55 huruf a Undang-Undang Akuntan Publik adalah untuk melindungi kepentingan masyarakat dari kemungkinan pemalsuan atau penipuan yang dilakukan oleh Akuntan, kepentingan masyarakat tersebut telah cukup terlindungi oleh ketentuan KUHP (delik pemalsuan ataupun penipuan), sehingga oleh karenanya ketentuan Pasal 55 huruf a Undang-Undang adalah ketentuan yang berlebihan bahkan fantastis. Dengan demikian Pasal 55 huruf a Undang-Undang menimbulkan ketidakpastian dalam hukum dan bertentangan dengan prinsip lex certa yang menjadi prinsip dasar dalam hukum pidana pencantuman sanksi pidana sebagaimana ditentukan oleh Pasal 55 dan Pasal 56 Undang-Undang dalam perspektif hukum pidana yang humanistis adalah tidak tepat dan irrasional. Sehingga Sangat diperlukan pengaturan profesi akuntan yang seharusnya menjadi gagasan dasar penguatan profesi yang dijadikan standar atau orientasi pandangan, tereduksi dengan adanya kriminalisasi pada Pasal 55 huruf b yang menimbulkan ketakutan dalam dunia akuntansi. profesi.

Kata kunci: akuntan publik, pembatalan, putusan MK

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Introduction

Law Number 5 of 2011, concerning Public Accountants in outline, defines the role of a public accountant in the community environment, which consists of duties, rights, obligations, responsibilities, sanctions and so on from a Public Accountant (AP) or Public Accounting Firm (KAP) which aims to further disseminate to the public the importance of using accountants' services in practice within the community. Society began to demand credibility, integrity and professionalism from a public accountant. Undeniably, a public accountant's role is essential in providing accurate information about a company's financial statements (Beams & Jusuf, 2000) . In the 2013 Auditing Standards book, which is a guidebook for public accountants in auditing financial statements, it is stated that the objective of a financial statement audit is to express an opinion on the fairness, in all material respects, financial position, results of operations, changes in equity and cash flows by the principles generally accepted accounting in Indonesia.

Understanding the law is not easy, considering that understanding requires an awareness of the behaviours involved in it and the possibility of different interpretations of the existence of law (Rezaee & Riley, 2010) . This understanding also happens in the public accounting profession, where the behaviours involved sometimes do not adequately understand what has become an obligation which will later have legal consequences (Kholis et al., 2001). A good understanding of the law will bring the public accounting profession into sound practices, which can improve public performance and credibility. On the other hand, if public accountants do not understand it in a climate of openness in the current reform era, it will be able to bring the development of the phenomenon into a broader context in which the public has started to dare to file lawsuits against various professions, including the public accounting profession (Saleh & Rachmad, 2004) : Firstly, Obligations to clients (Liabilities to Client). The Public Accountant's obligations to the client due to failure to carry out audit assignments according to the agreed time, inadequate audit implementation, failure to find errors, and violations of confidentiality by public accountants; Secondly, Liabilities to third parties according to Common Law (Liabilities to Third parties.) Liabilities of public accountants to third parties in the event of loss to the plaintiff due to reliance on misleading financial statements; Thirdly, Civil Liability under federal securities laws (Liabilities under securities laws). Legal obligations are governed by federal securities with strict standards, and the last is Criminal Liabilities (Crime Liabilities). Legal obligations due to the possibility of public accountants being blamed for criminal acts under the law.

Legally, audit services, as described in the Public Accountants Act, are provided by a public accountant in the form of insurance services that aim to provide confidence for users on the evaluation results or measurement of financial and non-financial information based on specific criteria. It is no secret that financial data is

a kitchen secret for every company; clients are certainly apprehensive about their reports being seen by their opponents (Brigham, E. F., & Houston, 2006). The subsequent implication is that if the relationship with other parties is expanded to include conditions where the parties are a group of people who have the same interest in the entity that is the object of the accountability relationship, then the form and content of financial reports as standard accountability reports will certainly not be sufficient. Again, as a tool to meet the accountability needs of interested parties. The articles contained in the 1945 Constitution, both regarding citizens and those concerning the entire population, contain the desire of the Indonesian people to build a state that is democratic and that wants to implement social justice and humanity. Therefore, usually, large companies give more trust to the audit in their financial statements using wellknown KAP audit services. Several large companies prefer to choose experienced foreign KAPs (Larry E. Rittenberg, 2005).

In the legal world, it is also known that a legal audit is due diligence from a legal perspective on all aspects of company law. Legal consultants conduct thorough examination activities from a legal perspective on a company to obtain information or material facts that can describe the company's condition (Ropaun & Tandr, 2011). Suppose violations, omissions, or unusual provisions are found in company documents or other information or facts that could pose a material risk to the company. In that case, the legal consultant is obliged to notify them. Legal audits are carried out by:

1. Thorough inspection of company documents. This examination includes the company's Articles of Association (along with all amendments), minutes of meetings (GMS and others), the composition of shares and capital, directors and board of commissioners (whether or not there is a legal problem), permits and approvals that must be owned by the company, company assets (e.g. land certificates), insurance (if the company is involved in an insurance agreement), employment (whether the company complies with existing conditions), material agreements that bind the company (with suppliers, clients and others), examination of cases involving the company (if any) and financial reports and management letters and company tax documents (in collaboration with financial auditors). In addition to examining documents, legal consultants can conduct site visits and answer questions with various company components.
2. After all inspections have been completed, the legal consultant will make a legal opinion report, one of the documents required if the company wants to go public. A Limited Liability Company (PT) that wishes to undergo a legal audit is recommended to ensure that the company complies with all regulations and has complete documents.

The three previous studies are as follows. Firstly, Herusetya Antonius' (2007) research results state that the ever-changing legal environment causes increasing legal obligations for public accountants. Even though the auditor has carried out professional professional skills, the government, investors, and clients can still file litigation claims against the auditor. Public accountants need adequate knowledge of their legal obligations to clients or third parties. Knowledge of legal obligations arising from capital market laws and other special criminal laws makes auditors increasingly aware of the increasing legal obligations. Public accountants can avoid legal obligations in various ways. Professional associations have made great efforts to identify ways to reduce legal obligations for public accountants.

Secondly, Paramitha (2017) research results state that: First, the public accountant has the responsibility to protect the public interest, not only limited to the interest of the client or employer, but also responsible to ethics, which sourced from code of ethics profession public accountants, about ethics principles, independence, and responsible for the profession that comes from the professional standards of public accountants and articles of association of professional organizations of public accountants. Second, the public accountant is responsible for his professional colleagues by maintaining the profession's image. Third, the authority of the Minister of Finance in fostering and supervising the public accountants profession in Indonesia as stipulated in the Law of Public Accountants may impede independence and not by the professional standards of public accountants when auditing the financial statements of issuers and State-Owned Enterprises (SOEs), because the capital market of accountants The public shall perform obligations as a Whistle Blower, as required by capital market law.

Thirdly, Sirait (2018), The research result state that a public accountant can have criminal and civil liability in carrying out the duties when publishing a company's financial statements. Based on previous researchers, the author wants to discuss the "Cancellation of Article 55 of The Public Accountant Law by The Constitutional Court Decision". The Public Accountant profession could be punished without a Constitutional Court Decision. Because it can be punished, the Public Accountant Professional Association filed a lawsuit with the Constitutional Court with rational reasons that form the basis of the petition. The findings between the sound of the Public Accountant Law and the ruling of the
Constitutional Court illustrate that there is still legal ambiguity, and it is still biased towards users of the law and enforcers of the law.

Research Problems

The research problem in this study is:

1. How did the inconsistency between Article 58 of Law No. 5 of 2011 and Law No. 16 of 2000 and Public Accountant Professional Standards?

2. How did the repressiveness of Article 55 an impact on the independence of the public accounting profession?

Research Methods

The research conducted is normative legal research, namely research conducted by examining the laws and regulations that apply or are applied to a particular problem. The approach used in this study is the statutory approach, the concept approach and the case approach. Data obtained from statutory regulations will explain the implementation of public accountant responsibilities and be accompanied by a theory of justice. This research also uses sources of legal materials, namely primary legal materials and secondary legal materials, by the problems studied, such as the formulation of primary legal norms and secondary legal norms in Article 56 of a quo Law (secondary norm) immediately refers to Article 55 of the a quo Law (primary norm) which results in a blur of meaning. Research data analysis uses normative descriptive analysis.

Discussion

The inconsistency between Article 58 of Law No. 5 of 2011 with Law No. 16 of 2000 and Public Accountant Professional Standards

Article 58 of the Law on Public Accountants contradicts Law Number 16 of 2000 concerning General Provisions and Tax Procedures, specifically Article 28 paragraph 11, which states: "books, records, documents which form the basis of bookkeeping or recording, and other items must be kept for 10 years in Indonesia, namely at the place of activity or place of residence of the individual taxpayer or the domicile of the corporate taxpayer. This arrangement is reinforced by Section 339, paragraph 8 of Auditing Standards, which stipulates that the auditor must implement adequate procedures to maintain the security of working papers and must keep them for at least 10 years so that they can meet their practical needs and applicable provisions regarding document storage. Thus, it is clear that Article 58 of Law Number 5 of 2011 is inconsistent with Law Number 16 of 2000 and the Professional Standards of Public Accountants. Article 18 of Law Number 5 of 2011 contains requirements for obtaining a KAP business license, as well as article 20 contains requirements for obtaining a license to establish a KAP branch, article 6 requirements for obtaining a license to become a Public Accountant, article 7 requirements for obtaining a license to become a foreign Public Accountant, clearly out of place. Requirements like this are sufficiently contained in a Minister of Finance Regulation because if contained in a law, it will cause difficulties. If there are additional or reduced requirements, the law must be revised first with relatively long, significant funds so it does not meet the principle of efficiency. The criminal provisions contained in articles 55, 56 and 57 of Law Number 5 of 2011 are felt to be inappropriate to be contained in the Public Accountant Law, considering that sanctions for perpetrators of criminal acts are regulated in the Criminal Code

(KUHP). This arrangement gives the impression of intervention in the Criminal Code.

As stipulated in the article, the regulation of criminal sanctions will result in the emergence of double rules, overlapping rules, and the potential for multiple interpretations of a problem, which can lead to uncertainty in law enforcement. Article 58 of Law Number 5 of 2011 is inconsistent with Law Number 16 of 2000 and Professional Standards for Public Accountants. Criminal provisions do not need to be included in the Public Accountants Law because there is already a Criminal Code. Moreover, the Juridical Consequences of adhering to the rule of law state that the 1945 Constitution has also emphasized the recognition and legal protection of the rights of citizens and residents.

Certainty, order and legal protection in legal traffic generally require evidence that determines the rights and obligations of a person as a legal subject in society. In connection with proving the certainty of a person's legal rights and obligations in society, it can be started by making a contract, which gives birth to written or authentic evidence. This proof is related to the position of the public accountant to carry out audit work; the public accountant will issue the audit results in the form of an audited report, which also contains opinions or opinions about the financial condition and condition of the company being examined. In the sense that what has been stated in the financial statements provides information on the capabilities of a company (Pusat Pengkajian Hukum, 2002).

The Constitutional Court Decision Number 84 of 2011 only concerns the criminal process and scope of the Public Accountant because, from a civil law standpoint, the Public accountant profession can commit acts of default, failure to fulfil obligations within the company, either as a result of acts of default (1243 Civil Code) or Acts Against The law (1365 Civil Code) which by law is based on Article 1131 of the Civil Code, still provides opportunities for punitive consequences for parties who have committed acts of default or against the law to pay all losses from the aggrieved parties. Looking at the several legal cases that have occurred so far, both before and after the emergence of national and international cases, the Enron case in the United States has impacted the emergence of a crisis of public confidence in the public accounting profession. Public accountants receive much scrutiny from the public, who think that accountants have conspired to manipulate information for the benefit of a group of people at the expense of the interests of the community at large (Messier et al., 2006). The financial information the management presents is the management's full responsibility. Information that is only one-sided from management will tend to contain much bias, considering that the information is generated from an environment encompassed by many interests.

The profession of a Public Accountant is to assess the reliability of the accounting information presented by the company in its financial statements (Saleh & Saiful, 2001). Then, testing by a public accountant is needed to neutralize the bias

inherent in the information so that reports declared fair by a public accountant will contain reliable information (Hidayatullah et al., 2022). The difference between what is expected by users of financial statements and what is the auditor's responsibility gives rise to a difference called the expectation gap. In the audit, the auditor must comply with generally accepted auditing standards. At the same time, users of financial statements have confidence that the auditor guarantees the accuracy of financial statements and ensures the company's survival (Boynton & Johnson, 2006). Confidence held by users of financial statements later tends to become a problem when the opinion issued by the auditor is different from the conditions in the company. The law is susceptible to the various beliefs of financial statement users towards accountants because of their inability to meet public expectations, resulting in lawsuits and lawsuits against the legal obligations of the public accounting profession, who are deemed to have made a mistake in giving an opinion.

Whereas based on the description and reasons stated above, the presence of Article 55 and Article 56 of the quo Law not only harms the interests and constitutional rights of Public Accountants in obtaining recognition, guarantees, protection and fair legal certainty but also the right to a sense of security and protection from the threat of fear of doing or not doing something in carrying out the profession as a public accountant and associated parties. Therefore, Public Accountants think that Article 55 and Article 56 of the a quo Law conflict with the constitutional rights of Public Accountants guaranteed by the 1945 Constitution, so the Constitutional Court should declare that the a quo articles do not have binding legal force. The ruling of the Constitutional Court states that Article 55 of Law Number 5 of 2011, concerning Public Accountants (State Gazette of the Republic of Indonesia of 2011 Number 51, Supplement to the State Gazette of the Republic of Indonesia Number 5215) is conditionally contradictory to the Constitution of the Republic of Indonesia of 1945 (conditionally unconstitutional), namely unconstitutional as long as the word "manipulation" in Article 55 of Law Number 5 of 2011 is not interpreted "as an act based on malicious intent to seek advantage for oneself or another party unlawfully based on sufficient preliminary evidence".

The repressiveness of Article 55, which has an impact on the independence of the public accounting profession.

The profession of a public accountant can be punished if there is no Constitutional Court decision. Because of this, the Public Accountant Professional Association filed a lawsuit with the Constitutional Court with the Rational Reasons Forming the Basis for the Petition (Toruan & L, 2001). The findings between the Public Accountant Law's provisions and the Constitutional Court's rulings illustrate that there is still legal ambiguity and bias among law users and law enforcers. According to the Public Accountants, Article 55 and Article 56 of the Public Accountant Law contradict several Articles of the 1945 Constitution.

Article 55 letter a Law on Public Accountants, which reads:

Public Accountants who manipulate, help manipulate, and/or falsify data relating to the services provided as referred to in Article 30 paragraph (1) letter j; shall be subject to a maximum imprisonment of 5 (five) years and a maximum fine of Rp. 300,000,000.00 (three hundred million rupiahs)", contrary to Article 28 letter D paragraph (1) of the 1945 Constitution, because it creates legal uncertainty

In the case in Indonesia, several public accountants submitted a judicial review of Law Number 5 of 2011 to the Constitutional Court. They are m. Achsin, Anton Silalahi, Yanuar Mulyana, Rahmat Zuhdi, and m. Zainudin. The accountants who are members of the Indonesian Association of Public Accountants (IAPI) question the existence of criminal provisions in the accounting profession. In Articles 55 A, 55 B and 56 of Law Number 5 of 2011 concerning Public Accountants. This rule is considered to be contrary to Article 28 D paragraph (1) and Article 28 G paragraph (1) of the 1945 Constitution. Apart from that, there is injustice and legal uncertainty. Because the contents contain multiple interpretations and biases in the article, the article considered problematic is Article 55 A, concerning sanctions for acts of manipulation. Then, Article 55 B relates to regulations on perpetrators and assistants. The threat of sanctions is a fine of IDR 500 million. When providing information as a related party in the courtroom of the Constitutional Court, the general chairman of the Indonesian Institute of Public Accountants (IAPI), Tia Adityasih, revealed that the Indonesian Institute of Public Accountants (IAPI) questioned the criminal provisions regulated in Law Number 5 of 2011. IAPI believes that the aim of the criminal provisions regulated in Articles 55 and 56, namely to prevent crimes or fraud committed by public accountants and associated parties, is a far-fetched view and is not supported by scientific data. He also considers this provision to be a form of 'dwarfing' the public accounting profession, which the constitution guarantees.

This consideration is based on the reasons as explained below. First, Article 55 letter a of the law contains the word "manipulation", whose meaning is obscure (obscure) because the act of manipulation is not recognized in the basic formulation of the Criminal Code as a fundamental provision in criminal law. Criminal acts related to letters regulated in the Criminal Code are forgery of letters. However, it turns out that Article 55 letter of the Law Forgery of Letters is used together in one phrase with manipulation, meaning the two terms should have different meanings.

The definition of manipulation can be found in the Big Indonesian Dictionary, which means (1) the act of doing something by hand; (2) fraudulent acts (by looking for weaknesses in regulations and so on) (Wisudawan et al., 2019). In the dictionary of Sociology Anthropology, *manipulation* is defined as an attempt by a group or individual to influence other people's behaviour, attitudes and opinions without that person being aware of it (Al-Barry & Yacub, 2001). In the practice of the public accounting profession, manipulation in auditing is interpreted as a positive thing.

In auditing, the term "data manipulation" or "data manipulation" is used, which means an investigator or auditor analyzes data stored in various data storage media to find what he is looking for (Tuanakotta, 2010). Thus, the term "manipulation" has clearly created ambiguity and multiple interpretations when faced with an act suspected of manipulation. The ambiguity of the meaning of the word manipulation results in legal uncertainty, contrary to the guarantee of the right to a fair legal certainty as referred to in Article 28 letter D paragraph (1) of the 1945 Constitution. Criminalization should consider in detail what actions should be punished, what conditions should be met to blame/account for someone who committed the act, and what (criminal) sanctions should be imposed on that person.

The criminalization in Article 55 Letter, A of the Law, shows carelessness in considering and measuring the action and the criminal responsibility that must be carried out. This inaccuracy is seen by not considering it: Firstly, the role of each legal subject is between the person who committed the crime and the person who only provided assistance. Article 55, letter a of the Law, which does not distinguish between punishment for perpetrators (pleger) and those who assist
(medeplichtigheid), is not harmonious and contradicts the provisions of Article 55 and Article 56 of the Criminal Code. The formulation that helps equate the perpetrators is contrary to the provisions of Article 56 of the Criminal Code, which should have reduced the penalty by one-third. However, if it is equated with participation, it does not need to be formulated because every criminal act committed by more than one person with the same qualifications as the perpetrator has been regulated in the provisions of Article 55 of the Criminal Code as inclusion.

Meanwhile, Article 55 Letter A of the Law does not regulate the party ordering it. Thus, the Normalization of Article 55 letter A of the Law is contrary to the principles of criminal law, which always consider the factual wrongdoing of each offender. Secondly, Balance the actions of each actor with the resulting consequences. Article 55, letter a of the Law, which positions a person who commits and assists in committing the crime under the same penalty, is contrary to the principle that everyone is only accountable for what has been done. Moreover, the offence in Article 55 letter a is a formal offence that regulates prohibited acts, not a material offence that prohibits the consequences of the actions committed. Thirdly, Failure to consider the element of guilt (mens rea) of the offender as an element for which a public accountant can account in criminal law confuses the criminal law concept in Indonesia, which distinguishes between acts (actus reus) and those who are held accountable and related to threats maximum imprisonment of 5 years and a maximum fine of Rp. 300,000,000.00
(three hundred million rupiahs), the criminal threat should maintain equality between public protection, honesty, procedural justice, and substantive. With a high criminal threat, there is no equality between public protection, honesty, procedural and substantive justice.

Public accountants will be in a subordinate and minor position due to the lack of protection for the exercise of their profession, given the high legal threat (Herusetya, 2002). Even if it is true that the intent of the formulation of Article 55 Letter a of the Public Accountant Law is to protect the interests of the public from the possibility of forgery or fraud perpetrated by accountants, the public's interests have been sufficiently protected by the provisions of the Criminal Code (delicts of counterfeiting or fraud), so, therefore, the provisions of Article 55 letter a The law is an exaggerated and even fantastic provision. Thus, Article 55 Letter A of the Act creates uncertainty in the law and contradicts the lex certa principle, which is the basic principle in criminal law.

This contradiction means a violation of or contrary to Article 28 letter D paragraph (1) of the 1945 Constitution especially the clause "fair legal certainty" a.2. Article 55 letter a of the Public Accountant Law is contrary to Article 28 letter G paragraph (1) of the 1945 Constitution, because Article has created a feeling of insecurity or extreme fear that public accountants feel they are not accessible to carry out their profession to act, or not doing. Audit activities carried out by public accountants are closely related to the use of computers, where data manipulation processes must be carried out, given the nature and workings of computer programs related to the audit process (Knapp, 2007). In the computer field, *data manipulation* is defined as the activity of generating new data or deriving new data from existing data. In this activity, data processing is carried out by adding, subtracting or entering specific data in a computer program for the benefit of processing the data itself.

Public Accountant who intentionally manipulates, falsifies, and/or removes data or notes on working papers or does not make working papers related to the services provided as referred to in Article 3 paragraph (1) so that they cannot be appropriately used in the framework of an audit by the competent authority shall be punished with imprisonment for a maximum of 5 (five) years and a maximum fine of Rp. 300,000,000.00 (three hundred million rupiahs)". Contrary to Article 28 letter D paragraph (1) of the 1945 Constitution, it creates legal uncertainty.

The use of criminal law must pay attention to the goals of national development, namely realizing a just and prosperous society that is materially and spiritually evenly distributed based on Pancasila; in this connection, the (use of) criminal law aims to tackle crime and carry out countermeasures itself, for the welfare and protection of society. The Public Accountants are of the opinion that Article 55 and Article 56 of the Law have contradicted the constitutional rights of Public Accountants guaranteed by the 1945 Constitution, so the Constitutional Court should have stated that the articles had no binding legal force that:

> Article 55 of Law Number 5 of 2011 concerning Public Accountants (State Gazette of the Republic of Indonesia of 2011 Number 51, Supplement to the State Gazette of the Republic of Indonesia Number 5215) conditionally

contradicts the 1945 Constitution of the Republic of Indonesia (conditionally unconstitutional), namely unconstitutional insofar as the word "manipulation" in Article 55 of Law Number 5 of 2011 is not interpreted as "an act based on malicious intent to seek profit for oneself or another party unlawfully based on sufficient preliminary evidence".

Based on the problem, with the Constitutional Court Decision Number 84 of 2011, an eye-opener, the urgency of the Code of Ethics for Accountants can be empowered and optimized. Amid of the competitive global business world with today's very complex realities, there are many factors that businesspeople need to maintain and implement. Business management requires several simultaneous development skills and competencies, mastery of science and technology, dynamic organizational management, accommodation of socio-cultural aspects, and several other policies. Justice provides equal opportunities for all actors to run their businesses, including the accounting profession, which is in the economic business subsystem area and requires ethics to lead to fair and friendly practices. One area of expertise in the accounting profession that is very susceptible to context is public accounting. *Public accounting* is an independent profession that provides guaranteed and non-guarantee services. The basic idea of regulation of the accounting profession, which should be a basic idea of strengthening the profession, which is used as a standard or orientation point of view, is reduced by the existence of criminalization in Article 55 letter b, which creates fear in the accounting profession.

Conclusion

Articles 55 and 56 of the Public Accountant Law contradict Article 28C paragraph (1) and paragraph (2) of the 1945 Constitution. The articles have imposed restrictions on obtaining benefits from accounting auditing and finance knowledge to improve public accountants' quality of life as guaranteed in Article 28 Letter C paragraph (1) of the 1945 Constitution. This condition is because the criminal provisions in the Article are very repressive, which causes an accountant to be afraid to develop himself as a public accountant so that he cannot benefit from knowledge in the accounting field. Article 55 and Article 56 of the Law do not only harm the interests and constitutional rights of Public Accountants in obtaining recognition, guarantees, protection and fair legal certainty but also the right to feel safe and protected from threats of fear to do or not do something in carrying out the profession as a public accountant and associated parties. Article 55 and Article 56 of the Law impede the right of the Public Accountant profession to build society by spreading threats of criminalization without recognizing and respecting the realm of professional ethics as stipulated in the self-regulation (professional standards for public accountants). The criminal sanctions in Articles 55 and 56 harm the Public Accountant profession because, as a profession that is very sensitive to public trust, let alone sanctions revocation of licenses or suspension of licenses, even negative

news about public accountants that are not necessarily true will undermine the fate of the public accountant concerned, therefore the Constitutional Court's decision is a means of stopping the criminalization of public accountants, but this is also not easy, because the decision of the Constitutional Court, is also not easy to implement/apply. Based on all of the arguments put forward by the Public Accountants above, the inclusion of criminal sanctions as determined by Article 55 and Article 56 of the Law in the perspective of humanistic criminal law is inappropriate and irrational.

The basic idea of regulation of the accounting profession, which should be a basic idea of strengthening the profession, which is used as a standard or orientation point of view, is reduced by the existence of criminalization in Article 55 letter b, which creates fear in the accounting profession. Meanwhile, a regulation should be a construction of thought (idea) that directs the law to the ideals desired by the profession concerned, in the case of the public accounting profession. Article 55 letter b is contrary to the spirit of guaranteeing and maintaining professional freedom as one of the fundamental essences of the constitution. Legislators should have regulated clearly and in detail (the principle of lex certa or bestimmtheitsgebot) regarding actions that were ultimately subject to criminal sanctions. Legislators must also define clearly without being vague (nullum crimen sine lege stricta) so there are no ambiguous and vague formulations regarding prohibited and sanctioned actions. Formulations that are unclear or too complicated will only bring up multiple interpretations.

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