

LEGAL PROTECTION OF PERSONAL DATA AND MICRO, SMALL, AND MEDIUM ENTERPRISE (MSME) DATA IN THE PEOPLE'S BUSINESS CREDIT APPLICATION PROCESS

Jeges Imanuelita Gultom ^{a*)}, Debora ^{a)}, Jinner Sidauruk ^{a)}

^{a)} HKBP Nommensen University Medan, Medan, Indonesia

^{*)}Corresponding Author: jegesmanuelita.gultom@student.uhn.ac.id

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Abstract A stable and growing economy is crucial for the advancement of a country, but unemployment remains a significant challenge faced by the government. To address this, the Indonesian government has promoted the development of MSMEs to create job opportunities and support the national economy. Since 2018, the People's Business Credit (KUR) program has been launched to support MSME financing through low-interest funding distributed by banks or financial institutions. This study discusses the legal protection of personal data and MSME data in the KUR application process, as well as the role of regulatory institutions such as the Financial Services Authority (OJK) and the Financial and Development Supervisory Agency (BPKP). The study's findings indicate that, despite the existence of Law No. 27 of 2022 on Personal Data Protection, the protection of MSME data remains suboptimal. More specific regulations are needed to ensure the security and confidentiality of data, thereby preventing misuse by irresponsible parties. In the implementation of KUR, OJK is responsible for maintaining the confidentiality of consumer financial data, while BPKP supervises the distribution of KUR funds through an integrated information system. Strengthening the roles of these institutions is vital to enhance accountability and the protection of MSME data, while also supporting the success of the KUR program in driving national economic growth..

Keywords: personal data, MSME data, people's business credit

I. INTRODUCTION

In advancing a country, it is necessary to have a developed and stable economy. However, unemployment has become a significant issue for many nations, prompting governments to encourage the public to establish micro, small, and medium enterprises (commonly referred to as MSMEs). These enterprises play a substantial role in creating job opportunities and enhancing the economic system in Indonesia.

In establishing a business, capital serves as a fundamental and crucial element for entrepreneurs to start and grow their enterprises (Putra, M. M, 2015). Capital has long been a classic problem for MSME entrepreneurs. Limited access to financing often hinders the potential of MSMEs to fully develop. Recognizing the importance of MSMEs as the backbone of the national economy, the Indonesian government initiated the People's Business Credit (Kredit Usaha Rakyat, or KUR) program as a solution to address capital challenges. This program, operational since 2018, is designed to provide low-interest financing with more flexible requirements compared to conventional commercial loans. This initiative reflects the government's commitment to fostering MSME growth and ensuring their contribution to economic development continues to increase (Andini, W,

2022). The government aims to support entrepreneurs intending to establish or currently operating MSMEs through the KUR program.

People's Business Credit (KUR) is a government-supported financing program offering low-interest rates to support small and medium enterprises. Although the funds distributed through KUR come entirely from banks or non-bank financial institutions (NBFIs) administering the program, the government plays a significant role by subsidizing interest rates and providing guarantee schemes. KUR funds are designed to meet the working capital and investment needs of entrepreneurs with productive and viable businesses who are not yet considered "bankable" or lack additional collateral. This program provides opportunities for individuals, business entities, or business groups to access financing despite limitations in guarantees. Under this scheme, the financed business or investment assets may serve as primary collateral, making the program more inclusive and driving MSME growth.

KUR serves not only as a financial solution for MSMEs but also aims to strengthen economic independence by fostering more productive and sustainable enterprises. The disbursement of KUR funds involves collaboration with several non-bank financial institutions and general banks

partnered with the government. However, the eligibility criteria for each distributing bank do not differ significantly. For instance, distributing banks require personal data and document completeness as prerequisites for KUR recipients. These documents typically include:

1. Applicant's ID card (including spouse, family card, and marriage/divorce certificate)
2. Articles of association and amendments
3. Income certificate issued by the local village office
4. Taxpayer Identification Number (NPWP)
5. Business license
6. Business location legality
7. Bank account statements
8. Collateral documentation (for Small KUR)

These documents contain personal and business data of MSME actors. Consequently, the misuse of personal and business data poses risks for KUR recipients, violating the principles of caution and banking confidentiality, which are crucial for personal data protection. According to Law No. 27 of 2022, personal data protection entails comprehensive efforts to safeguard the security and confidentiality of personal data throughout its processing stages, including collection, storage, use, and deletion. The primary objective of this protection is to ensure the constitutional rights of data subjects and to prevent misuse of information by irresponsible parties.

This law serves as a legal foundation in alignment with technological advancements, fostering a secure digital ecosystem that respects individual privacy. Beyond personal data, MSME data also plays a critical role in KUR applications, as it is classified as specific personal data. This data encompasses business types, locations, and financial conditions, making it specific and in need of protection.

The misuse of personal data can lead to serious legal issues, such as the case of fictitious loans at Bank Rakyat Indonesia (BRI) in the Sudirman Unit, Ciamis Branch. In this instance, an employee identified as FER collaborated with a third-party broker to collect victims' personal data, which was then used without authorization to apply for KUR. The disbursed credit was diverted entirely by the broker into their personal account under the pretense of assisting with loan installments. In return, the broker received a 10% commission on the loan value, provided by FER. This scheme, operating from 2021 to 2023, resulted in FER recommending 252 fictitious debtors. Consequently, BRI Ciamis suffered significant financial losses amounting to IDR 9,158,660,776, while FER personally profited IDR 5,642,500,000.

This case not only caused substantial financial losses for the banking institution but also highlighted the serious risks posed by the misuse of personal data in financial systems (Nurseptiani & Wiyanti, 2024). Violations related to the misuse of customer personal data by banks indicate material losses for customers and raise questions about the effectiveness of personal data protection oversight. Regulatory bodies, such as the Financial Services Authority (Otoritas Jasa Keuangan, OJK) and the Financial and Development Supervisory Agency (BPKP), play critical roles

in ensuring the protection of personal and business data of MSMEs involved in the KUR program.

OJK oversees the management of customer data to prevent misuse, while BPKP evaluates the systems and governance of financial institutions. Strict oversight and robust data protection measures are essential to maintaining public trust in banking systems and financial institutions.

To address these issues, legal protection through preventive and repressive approaches is necessary. Preventively, the government should strengthen specific regulations for MSME data protection (Anggitafani, R. F., 2020), while financial institutions must enhance digital security and educate MSMEs on the importance of data confidentiality. Repressively, victims of personal data misuse can file civil lawsuits under Article 1365 of the Civil Code to claim compensation for material and immaterial losses. This approach not only protects victims' rights but also deters perpetrators. Additionally, these measures aim to reduce data misuse risks and increase accountability in managing the KUR program, ensuring financial institutions operate transparently and responsibly.

This study analyzes the legal protection of personal and MSME data in KUR applications in Indonesia and evaluates the roles of the Financial Services Authority (OJK) and other supervisory institutions in safeguarding MSME data. The issue arises when personal and business data is misused, leading to legal violations that materially harm customers. This situation raises concerns about the roles of regulators, such as OJK and other oversight institutions, in protecting the personal and business data of MSMEs involved in the KUR program.

II. RESEARCH METHOD

This research employs a normative-legal research approach. According to Soerjono Soekanto, this approach emphasizes the analysis of legal principles, the structure and systematics of law, the harmonization of legal norms, as well as the study of legal history and comparative law. The aim is to identify and understand the applicable legal regulations and their implementation within the context of the research, considering both theoretical and practical legal aspects. (Sunggono, 2013). This study focuses on legal protection for personal data and micro, small, and medium enterprises (MSMEs) as well as the role of the Financial Services Authority (OJK) in safeguarding such data. The method used is a statutory approach, which involves analyzing laws and regulations relevant to the legal issues under investigation. (Sisma, 2022)

This research is divided into three categories of legal materials, namely primary, secondary, and tertiary legal materials. Primary legal materials include binding legal sources such as the 1945 Constitution, laws, legal literature, legal journals, and other official documents. In this research, the author uses several primary legal sources, including the Civil Code, Law No. 27 of 2022 on Personal Data Protection, Financial Services Authority Regulation No. 1/POJK.07/2013 on Consumer Protection in the Financial Services Sector, and the Ministry of Finance Regulation No. 12 of 2024 on the

Guidelines for the Use of Credit Information Systems for Programs.

Secondary legal materials are materials that support and are closely related to primary legal materials. These include literature, publications, and writings on law that are not official documents, which can enrich the analysis and understanding of the legal issues being studied. Meanwhile, tertiary legal materials serve as additional supporting materials that provide further understanding of primary and secondary legal materials. These tertiary materials do not directly regulate the law but offer insights or explanations related to deeper legal concepts. In this study, tertiary legal materials used include legal dictionaries and the Indonesian Dictionary (KBBI), which help in understanding the legal terms used. (Solanki, 2023)

III. RESULTS AND DISCUSSION

The People's Business Credit Program (KUR) is a government initiative designed to provide small-scale credit to MSMEs through the banking sector, with the risk guarantee covered by the government through Financing Institutions. The primary goal is to facilitate easier access to capital for MSMEs to stimulate economic growth and equitable development (Nugroho, 2016, p. 1). According to the Regulation of the Coordinating Minister for Economic Affairs of the Republic of Indonesia Number 8 of 2020, the People's Business Credit Program (KUR) is explained more comprehensively, providing a clearer understanding of its meaning and objectives. Based on both definitions, the author concludes that the KUR program is a form of financing aimed at supporting business capital for MSME actors, which are typically individual businesses facing difficulties in obtaining adequate capital to run their operations. This financing is guaranteed by the Government and distributed through designated Financing Institutions, with the aim of providing easier and more affordable access to capital for MSMEs with growth potential but constrained by capital issues. Thus, KUR becomes an important effort in driving economic growth, particularly in the MSME sector, which plays a significant role in the Indonesian economy.

After defining the KUR program, it is crucial to understand the goals of the KUR program itself. The general objective of the KUR program is to increase MSME access to financing in order to address poverty alleviation and expand job opportunities (Nugroho, 2016, p. 1), as well as to strengthen business capital capabilities for implementing policies that accelerate the development of the real sector and empower MSMEs (Coordinating Ministry for Economic Affairs of the Republic of Indonesia, 2016).

In addition to understanding the objectives of the KUR program, it is important for MSME actors, as KUR applicants, to be aware of the requirements that must be met when applying for KUR. For example, the application requirements for KUR at Bank BTN can be used as a reference, even though the requirements set by other banks may differ but share similarities, especially regarding the administrative requirements for legal documents that contain personal and MSME data of the applicant. The following are the

application requirements at Bank BTN in 2024, according to Ki (2024):

1. Personal identification such as the Population Identification Number (NIK) and Identity Card (KTP).
2. Business (minimum 6 months).
3. Age (minimum 21 years old or married).
4. Credit history showing that the applicant has not previously used credit outside the KUR program at any bank.
5. Additional documents, such as a Taxpayer Identification Number (NPWP), to apply for credit exceeding Rp50,000,000.
6. Credit checks on potential debtors carried out by the bank using the Financial Information Service System.
7. The credit status should not be listed as non-performing or problematic in the Bank Indonesia blacklist.

Based on the above requirements, it is evident that personal and business data from MSME actors are essential to complete the legal documents. Therefore, banks must be extra cautious in entering data during the KUR loan disbursement process. Any errors in data entry can result in legal consequences that harm other parties, especially if the data is misused by irresponsible individuals.

Legal Protection of Personal Data and MSME Data in the People's Business Credit (KUR) Application Process in Indonesia

According to the Republic of Indonesia Law No. 27 of 2022 on Personal Data Protection, personal data refers to information related to an individual that can identify that person, either directly or indirectly, through electronic or non-electronic systems, whether separately or combined with other data. This law aims to protect the privacy and security of personal data to prevent its misuse. In this context, MSME data plays a crucial role. MSME data refers to information related to micro, small, and medium enterprises, including various aspects such as business type, location, and financial data. This data is used for managing and developing MSMEs, as well as meeting requirements in the credit application process, such as the People's Business Credit (KUR).

Legal protection of personal data and MSME data, based on the legal events discussed, involves two critical aspects: preventive legal protection and repressive legal protection. Preventive legal protection focuses on preventing violations by establishing clear and comprehensive regulations. The goal is to ensure that all parties, both the government and the public, act cautiously and in accordance with applicable legal provisions. In this regard, the government is expected to create regulations that minimize the potential for violations of personal and MSME data from the outset. On the other hand, repressive legal protection aims to resolve disputes arising from violations that have already occurred. This form of protection involves imposing sanctions or penalties on the violating party as a form of accountability for actions that harm others. These two forms of protection—preventive and repressive—work synergistically to maintain justice and the supremacy of law by preventing violations and ensuring clear legal consequences for offenders. Thus, both are essential for

creating a safe and protected environment for personal and MSME data.

Legal Protection According to the Civil Code (KUHPerdata)

Legal protection according to the Civil Code, particularly in Article 1365, governs acts against the law (referred to as PMH). In this context, the unauthorized use of personal and MSME data by another party without the owner's consent may be considered an act against the law (PMH). According to Auli (2023), there are three elements that fulfill the criteria for PMH: first, the act of the other party using data without the owner's consent violates the owner's rights. Second, the action causes harm to the data owner, either financially or reputationally, in relation to the individual or their business. Finally, the causal link element connects the first and second elements (Sari, I. 2021). In accordance with Article 1365, due to the PMH, the bank must take full responsibility towards the data owner, as there is an element of fault committed by the bank as the recipient of the data. This is further explained in Article 1367, which involves the responsibility of employees under the supervision of their superiors, violating the bank's principle of caution (Zahara, A., & Wardani, N. K., 2024).

Legal Protection According to Law No. 27 of 2022 on Personal Data Protection (UU PDP)

Legal protection for personal data and business data is regulated in Law No. 27 of 2022, which classifies personal data into two categories: general personal data and specific personal data. General personal data, such as name, gender, and nationality, does not require strict protection. On the other hand, specific personal data, such as MSME financial data, is more sensitive and requires more stringent protection due to the high potential risks of misuse. This law aims to provide appropriate protection based on the sensitivity level of the data. The Personal Data Protection Law (UU PDP) also includes criminal provisions related to violations of personal data involving unlawful acts. For instance, if a person intentionally and without authorization acquires or collects another person's personal data for personal or third-party interests, which can harm the data subject, they may face imprisonment for up to 5 years and/or a maximum fine of IDR 5 billion (Article 67(1) UU PDP). Unauthorized disclosure of personal data also carries similar sanctions, with a maximum prison sentence of 4 years (Article 67(2)). Moreover, other actions such as illegal use of personal data (Article 67(3)) or falsification of personal data (Article 68) are also regulated with severe penalties, including imprisonment for up to 6 years and/or fines up to IDR 6 billion.

In addition to imposing criminal sanctions, the UU PDP also allows victims to file civil lawsuits. Under Article 26(1) and (2) of Law No. 19 of 2016, the use of personal information through electronic media can only be done with the data owner's consent. If this right is violated, the victim has the right to file a lawsuit for the damages caused. This lawsuit is based on Article 1365 of the Civil Code, which regulates acts against the law. Therefore, the UU PDP provides comprehensive protection against personal data violations, both through criminal and civil routes, to ensure the protection of each individual's privacy rights.

Personal Data and MSME Data are closely related, as MSME data includes the personal data of the business owner. This indicates that the protection of personal data also affects MSME data, and vice versa. With clear regulations in place, it is hoped that business owners will feel secure in managing their data during the KUR application process, thereby promoting the growth and development of MSMEs in Indonesia.

The Role of the Financial Services Authority (OJK) and the Financial and Development Supervisory Agency (BPKP) in Protecting MSME Data Used in KUR Applications

The KUR (Kredit Usaha Rakyat) program in Indonesia requires supervision regarding the disbursement of funds from the government to MSMEs (Micro, Small, and Medium Enterprises) in need of funding through banks or financing institutions. The KUR program has two main supervisory bodies: the Financial Services Authority (OJK) and the Financial and Development Supervisory Agency (BPKP). In this program, there are two main subjects: borrowers (creditors) as consumers and banks/financial institutions as fund distributors. Supervision over the borrowers is carried out according to the applicable laws by both institutions. The following sections will provide a detailed explanation of the roles of OJK and BPKP in general, and their specific roles in the context of the KUR program.

OJK and BPKP share the same role, which is to carry out monitoring and evaluation of the implementation of the Memorandum of Understanding regarding credit or financing guarantees for MSMEs and cooperatives; develop strategies to address issues arising from the implementation of these guarantees; and perform other tasks in accordance with the direction of the Coordinating Minister for Economic Affairs (Meby, D., & Latif, A., 2015).

The Financial Services Authority (OJK) operates independently and has broad duties and authority in the regulation, supervision, examination, and investigation of the banking sector. According to Article 7 of Law No. 21 of 2011, OJK is responsible for microprudential regulation and supervision, including the aspects of institutions, health, and prudence of banks, to ensure the stability and integrity of the financial system (Pangestika, E. Q., 2020).

In the Financial Services Authority Regulation No. 1/POJK.07/2013, it is specifically outlined how OJK plays a role as a protector, both in terms of protecting data and other matters related to consumers in the financial services sector, such as banking. Article 2 letter d emphasizes that maintaining confidentiality and security of consumer data is part of OJK's supervisory duties. Furthermore, Article 31, which applies to banks as financial service providers, prohibits the giving or receiving of data/information from unauthorized parties without legitimate consent.

In addition to OJK, BPKP supervises data collection by creating an information system on a website called "SIMDA (Sistem Informasi Daerah)." This website is not publicly accessible, ensuring the security of the information within the system. However, this system has weaknesses due to a lack of human resources who understand the updates to the system, as well as insufficient funding for the use of facilities like

laptops or computers. Previous studies also suggested improvements that BPKP needs to implement to enhance human resources quality (employee competence) and invest in technology to improve security and reduce threats (Wibisono, A. F., 2017).

IV. CONCLUSION

The Need for Specific Regulations for the Protection of MSME Data. Personal data and business data of MSMEs play a crucial role in the process of applying for People's Business Credit (KUR), as this data is used to assess creditworthiness and ensure that funds are allocated correctly. Although Indonesia has Law No. 27 of 2022 concerning Personal Data Protection, legal protection for this data is still not fully optimized. This law provides a basic framework for protecting personal data, but more specific and detailed regulations are still needed to regulate the protection of data used in KUR applications. More comprehensive regulations will ensure the security and confidentiality of both personal and MSME business data during the credit application process, reducing the potential for misuse by irresponsible parties. This is important to increase MSME actors' trust in utilizing the KUR facility without worrying about violations of their privacy and data security. With clear and detailed regulations in place, it is hoped that personal and MSME business data can be adequately protected throughout the application and use of KUR. The Strategic Role of OJK and BPKP in KUR Supervision. In the KUR program, the Financial Services Authority (OJK) and the Financial and Development Supervisory Agency (BPKP) play significant roles as supervisory institutions. OJK is responsible for protecting consumers in the financial services sector by ensuring data security, while BPKP supervises the disbursement and utilization of KUR funds through an integrated information system. Strengthening the roles of these two institutions is necessary to support the protection of MSME data and enhance the accountability of the KUR program.

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