

## **LBH Bandar Lampung-FSBMM Reported PT BMI to the Police Over a Labor Crime Case**

The Bandar Lampung Legal Aid Institute (LBH) and National Federation of Food and Beverage Workers (FSBMM) reported alleged labor crime committed by PT Bumi Menara Internusa (BMI) to the South Lampung District Police, Tuesday, August 13, 2019.

The complaint began with the criminalization of PT BMI worker, Reni Desmiria, who was alleged to have committed the falsification of a certificate, that in the facts of the trial it was revealed that PT. BMI has paid wages to workers in accordance with the Regency Minimum Wage (UMK).

“But the fact that we found out was that the wages received by the workers do not match or are below the minimum wage provisions and there is no work safety insurance through the BPJS,” said Head of the EKOSOB Division of LBH Bandar Lampung, Sumaindra Jarwadi, S.H, in his written statement to *Saibumi.com*, Tuesday.

Based on the Decree of the Governor of Lampung No: 6/560/ V.70/HK/2018 concerning the Establishment of the 2019 Minimum Wage in South Lampung Regency, it states that the South Lampung Regency minimum wage is Rp2,365,835.84 or 2.3 million rupiah.

Regarding wages, each company is required to provide minimum wages to workers in accordance with the UMP/UMK set by the government.

“We found out the fact that workers at PT. BMI are only casual daily workers who get wages below the UMK. Thus, it can be assumed that there has been a crime related to manpower at PT. BMI due to the provision of wages under the UMK,” explained Sumaindra.

In addition, PT BMI also has yet to register some of its workers for BPJS, which is the right of every worker to have a work safety insurance.

Based on Article 19 paragraph (1) and (2) of Law Number 24 Year 2011 concerning BPJS, companies have obligations, namely:

- (1) *The employer shall collect the dues borne by employees and deposit it to BPJS.*
- (2) *The employer shall pay and deposit the dues which are borne by the employer to BPJS.*

Violations of the above article in accordance with Article 55 of Law Number 24 Year 2011 concerning BPJS regulates:

*“Employers who violate the provisions referred to in Article 19 paragraph (1) or paragraph (2) shall be sentenced to a maximum imprisonment of 8 (eight) years or a maximum fine of Rp1,000,000,000.00 (one billion rupiah).”*

Based on Article 185 paragraph (1) of Jo Article 90 paragraph (1) of the Manpower Law, companies that pay below the minimum wage are subject to criminal sanctions for up to one year and a maximum of four years imprisonment and/or a minimum fine of 100 million rupiah and a maximum of 400 million rupiah.

Article 90 paragraph (1) of Law Number 13 Year 2003 concerning Manpower states:

*“Employers are prohibited from paying wages lower than the minimum wage as referred to in Article 89.”*

Article 185 paragraph (1) of Law Number 13 Year 2003 concerning Manpower states:

*“Whoever violates the provisions as referred to in Article 42 paragraph (1) and paragraph (2), Article 68, Article 69 paragraph (2), Article 80, Article 82, Article 90 paragraph (1), Article 143, and Article 160 paragraph (4) and paragraph (7), are subject to a maximum of 1 (one) year imprisonment and a maximum of 4 (four) years and/or a fine of at least Rp 100,000,000.00 (one hundred million rupiah) and a maximum of Rp 400,000,000.00 (four hundred million rupiah).”*

Thus, based on the above provisions, it can be concluded that companies that pay employees' salaries below the provincial minimum wage as stipulated by the government may be subject to criminal sanctions in the form of imprisonment for a minimum of one year and a maximum of four years and/or a fine of at least Rp 100,000,000.00 (one hundred million rupiah) and a maximum of Rp 400,000,000.00 (four hundred million rupiah).

The prosecution against violations related to labor crime can be carried out by Indonesian National Police officials and can also be carried out by Civil Servants Investigators in accordance with Article 182 paragraph (1), namely *“In addition to investigating officers of the Indonesian National Police, labor inspectors can also be given special authority as civil servants investigators in accordance with applicable laws and regulations.”*

“It means that the investigation can be carried out by the Indonesian National Police officials or Civil Servant Investigators who are given authority in accordance with the Law,” Sumaindra explained.

“Accordingly, with the aforementioned issues, which to this day are still continuing and done by PT.BMI, LBH Bandar Lampung and FSBMM ask the Indonesian National Police, in this case the South Lampung District Police, to follow up on complaints,” he concluded.