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# The Role and Legal Responsibilities of Directors and Commissioners in Facing Administrative, Criminal and Civil Risks

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**Abstract**

This article examines the roles and legal responsibilities of directors and commissioners in corporate law, particularly regarding administrative, criminal, and civil risks. Directors, as the managing body, and commissioners, as supervisors, have legal obligations inherent in their strategic functions. In the Indonesian legal system, violations of the principles of prudence and good faith can give rise to personal liability. This study uses a normative juridical approach by analyzing relevant laws and regulations and jurisprudence. The results of the study indicate that there is still a lack of clarity in the application of accountability standards, particularly in distinguishing between corporate and individual management responsibilities. This lack of clarity can create legal uncertainty and risks for company managers. Therefore, this article recommends updating legal norms and strengthening the principles of good corporate governance as preventive measures to clarify the boundaries of responsibility and minimize legal risks for directors and commissioners.

## I. INTRODUCTION

In the legal structure of a modern company, the existence of a board of directors and a board of commissioners is a vital element in ensuring the efficient, accountable, and compliant operation of a limited liability company. As the executive body, the board of directors has full authority in making strategic and operational decisions for the company. Meanwhile, the board of commissioners is tasked with overseeing the implementation of the board's duties and providing preventive input and advice. Both bodies have significant responsibilities, not only to shareholders but also to other stakeholders, including employees, creditors, business partners, and the wider community.(Husin, 2023).

However, in practice, the legal liability inherent in the positions of directors and commissioners is often a complex issue, particularly when legal violations or losses occur in business activities. Directors and commissioners can be held legally liable in three main areas: administrative, criminal, and civil. Administrative liability typically arises from violations of sector-specific regulations, such as business licensing, capital market provisions, or employment laws. Meanwhile, criminal liability arises when there is an element of an unlawful act that fulfills the elements of a criminal offense, such as embezzlement, corruption, or manipulation of financial statements. Civil liability, on the other hand, usually relates to breach of contract or unlawful acts (onrechtmatige daad) that harm a third party.(Cevitra & Djajaputra, 2023).

This situation presents its own challenges, particularly in determining the boundaries of accountability between corporate actions and the personal responsibility of directors or commissioners as individuals. It's not uncommon for company managers to face personal lawsuits even though their actions were part of their professional duties as company officials. This is where understanding legal principles such as the business judgment rule, fiduciary duty, and the duty of care and duty of loyalty become crucial, which serve as benchmarks for assessing whether the actions of directors and commissioners are legally accountable.(Hadi, 2011).

In Indonesia, the legal basis for the legal liability of directors and commissioners is primarily regulated by Law Number 40 of 2007 concerning Limited Liability Companies (UUPT). Furthermore, various sectoral regulations and jurisprudence also contribute to the formation of norms and standards of conduct for company organs. However, gaps in the legal system remain, creating uncertainty for both business actors and law enforcement. One prominent issue is the lack of clear limits on the extent of individual legal liability when a company suffers losses or is involved in a legal case.

In the context of globalization and increasingly complex business dynamics, the legal risks faced by company managers are also increasing. Therefore, a thorough understanding of the forms and mechanisms of legal accountability is crucial. This not only aims to protect the interests of shareholders and external parties, but also to provide legal certainty for directors and commissioners so they can carry out their functions professionally, without excessive fear of legal repercussions.(Arifin & Sodikin, 2025).

Based on this background, this article aims to analyze in-depth the roles and legal responsibilities of directors and commissioners in dealing with administrative, criminal, and civil risks. This research uses a normative juridical approach, emphasizing the analysis of relevant laws and regulations, legal doctrine, and jurisprudence. It is hoped that this article will provide theoretical and practical contributions to the development of corporate law and encourage improvements in the implementation of good corporate governance principles in Indonesia.

## II. RESEARCH METHODS

This research uses a normative juridical method with a qualitative approach. Data sources include laws and regulations, academic literature, and case studies, which are analyzed descriptively and evaluatively to comprehensively answer the problem formulation.(Mahmud Marzuki, 2005).

## III. RESULTS AND DISCUSSION

### 1. Legal Responsibility in Administrative Risks

Administrative risk is one of the most common forms of legal liability faced by directors and commissioners in managing a company. This risk arises from non-compliance with laws and regulations, government policies, and sectoral regulations issued by supervisory bodies such as the Financial Services Authority (OJK), the Ministry of Trade, the Ministry of Environment and Forestry, and the Ministry of Manpower. These regulations cover various aspects, from reporting obligations and compliance with operational standards to environmental protection and capital market governance.(Sitanggang et al., 2025).

The Board of Directors, as the party with the executive function in running the company's day-to-day operations, is the primary party responsible for carrying out the company's administrative obligations. The most common examples are delays in submitting annual financial reports, business activity reports, or other administrative violations such as failure to comply with licensing requirements, failure to meet environmental standards, or failure to provide accurate and timely information to the relevant authorities. If proven to have committed negligence or committed administrative violations, the Board of Directors may be subject to sanctions in the form of:(Kuswiratmo & SH, 2016):

a. Written warning
b. Administrative fines
c. Temporary or permanent suspension of business permits
d. Restrictions on company operational activities
e. Recommendation for revocation of license by supervisory authority

Meanwhile, commissioners, even though they do not have a direct role in managing the company's operations, still have administrative legal responsibility if they are proven to be negligent in carrying out their supervisory function. This is based on Article 114 paragraph (1) of Law Number 40 of 2007 concerning Limited Liability Companies (UUPT), which states that commissioners are required to supervise management policies, the general course of management, and provide advice to directors, in good faith and with full responsibility. Failure to identify and follow up on administrative violations committed by directors can result in commissioners being held accountable, especially if there is evidence that the commissioners were aware of potential violations but did not take preventive action.

A concrete example of this administrative responsibility is seen in the case of a mining company that was fined by the Ministry of Environment for failing to submit an environmental management report by the specified deadline. A subsequent internal audit revealed that similar findings had been previously identified, but the commissioners failed to follow up on the audit recommendations, indicating negligence in their oversight function.

Furthermore, this administrative risk demonstrates the importance of compliance with reporting and documentation systems within a company. To avoid legal consequences that could impact business continuity, a company must have(Natalia, 2024):

a. An effective internal control system, including an internal audit that functions independently;
b. The active role of the compliance officer, whose job is to monitor regulatory changes and ensure the company's internal compliance with all legal and administrative obligations;
c. Regular training for all company managers and staff, especially regarding reporting obligations, business ethics and legal responsibilities;
d. Complete and systematic documentation of the entire decision-making and reporting process, so that it can be used as a basis for accountability in the event of an inspection by the supervisory authority.

With these steps, directors and commissioners can not only mitigate administrative risks, but also demonstrate their commitment to Good Corporate Governance (GCG) and ensure legal and ethical business sustainability.

## 2. Legal Responsibility in Criminal Risk

Criminal risk is one of the most serious legal risks that can affect a company's directors and commissioners. This risk arises when there is a violation of criminal law, either actively committed by management or passively allowing legal violations to occur within the company. These violations can take various forms, such as embezzlement, fraud, document falsification, financial statement manipulation, corruption, bribery, gratuities, and violations of licensing provisions and other laws and regulations.(Author, 2021).

In the context of corporate criminal law, the doctrine of identification theory is known, namely the theory that states that the actions of company managers, especially those with high authority such as directors and commissioners, can be considered acts of the corporation itself. This means that if a manager has the authority to determine the direction of company policy and operations, then his actions can be considered a representation of the will and actions of the company's legal entity. Therefore, when a manager commits a violation of the law, not only the individual concerned can be held criminally responsible, but also the corporation as a whole can be subject to sanctions.(Siringoringo & Firdaus, 2024).

The Board of Directors, as the primary governing body, has a significant responsibility to ensure that all operational activities and business decisions are carried out in accordance with the principles of prudence, integrity, and compliance with applicable laws. Failure to implement these principles can result in criminal liability. Similarly, the board of commissioners has a responsibility to actively monitor the company. If the board of commissioners is aware of indications of legal violations but fails to take action, this could constitute negligence, which also gives rise to legal liability, including potential criminal liability.(Zihranastiar et al., 2025).

The PT Asuransi Jiwasraya case sets a significant precedent, illustrating how corporate directors can be subject to criminal penalties for abuse of authority and violations of the principle of prudence in investment management. In this case, several directors were found to have systematically invested funds in high-risk and affiliated stocks without adequate risk assessment. As a result, the state suffered significant losses. The court subsequently ruled that the directors' actions constituted corruption and a violation of the Anti-Corruption Law, resulting in imprisonment and asset confiscation.(Ristamana, 2022).

In addition to Jiwasraya, the corruption case within PT Garuda Indonesia also reinforces the criminal risks for corporate managers. In this case, former directors were found guilty of accepting bribes from aircraft manufacturers and aircraft engine suppliers during the procurement process for new aircraft. This action clearly violates the principles of transparency, accountability, and integrity, which are the foundation of good corporate governance. The court ruling stated that this action not only violated business ethics but also constituted a criminal act of bribery involving cross-border cooperation, thus impacting the international reputation of the company and the country.(Nurdiani et al., 2025).

Criminal risks facing company managers can also trigger additional legal consequences, such as civil lawsuits by shareholders, revocation of business licenses by regulatory authorities, and significant criminal or administrative fines. Companies also often face restrictions on access to financing or market trust, ultimately threatening the overall viability of the business.(Author, 2021).

To prevent criminal risks, companies need to implement an effective and accountable internal control system. Every policy and decision-making process, especially high-risk ones such as procurement, investment, and asset management, must undergo a rigorous legal verification process and involve the oversight function of legal counsel or a compliance team. Furthermore, management needs to be provided with regular training on the latest laws and regulations, as well as the importance of building a corporate culture that upholds ethics, transparency, and legal compliance.

Understanding that criminal risk impacts not only individual managers but also the company's existence, it is crucial for all levels of management to embrace the principle of zero tolerance for legal violations as part of the company's core values. Instilling an anti-corruption culture, reporting violations through a whistleblowing system, and multi-layered oversight are all part of a system of protection against criminal law risks within the corporate environment.(Author, 2021).

## 3. Legal Liability in Civil Risks

Civil risks arise when a legal dispute occurs between a company and a third party, whether an individual or a legal entity, resulting in potential financial and reputational losses. Unlike criminal risks, which involve violations of public law norms, civil risks are more related to breaches of contractual obligations or unlawful acts (onrechtmatige daad) that can cause harm to another party and open up the possibility for that party to file a lawsuit.(Pahlevi et al., 2021).

In the context of the responsibilities of directors and commissioners, civil risks usually arise due to negligence in carrying out fiduciary duties, such as carelessness in asset management, business decisions that are detrimental to the company or third parties, and violations of agreements agreed upon by the company. In the Indonesian legal system, directors as executive organs are legally responsible for the management of the company and can be sued personally if proven to have exceeded their authority, committed fraud, or been negligent in carrying out their duties as regulated in Article 97 paragraphs (3) and (4) of the Limited Liability Company Law (UUPT).

For example, in a dispute between a property development company and its customers, it was discovered that the company's directors breached the sales agreement by failing to deliver the unit on time and not returning the customer's money as agreed. The consumer filed a civil lawsuit not only against the company as a legal entity but also against the directors personally, as there was evidence of negligence and bad faith in the dispute resolution process.

Similarly, commissioners can be held civilly liable if they are proven to be negligent in carrying out their supervisory functions, especially if such negligence causes losses to the company or third parties. Based on Article 114 paragraph (3) of the UUPT, commissioners who due to their negligence do not carry out their duties in good faith and responsibly can be held jointly and severally liable with the directors if their negligence also causes losses.

Civil risks also frequently arise in business partnerships, such as joint venture contracts, operational cooperation agreements (KSO), or procurement of goods and services. If company management does not fully understand the contents of the agreement and its legal implications, a breach of contract, or failure to fulfill contractual obligations, can occur. In many cases, such breaches result in lawsuits for damages or contract cancellation, which can seriously impact the company's financial stability and reputation.(Hapsari et al., 2025).

To avoid civil liability, company management must adhere to the principles of prudence, professionalism, and adherence to legal procedures in every business action or decision. Comprehensive due diligence, contract review by legal counsel, and orderly document recording are crucial steps in preventing legal disputes. Furthermore, it is crucial for management to establish an internal dispute resolution system, such as mediation or arbitration, so that disputes can be resolved without the need for lengthy and costly litigation.(Kelvianto & Mustamu, 2018).

Instilling a culture of contractual compliance and business ethics at all levels of the organization is also a preventative measure to reduce potential civil risks. When a company builds a reputation as a trustworthy business partner, the likelihood of conflict or lawsuits is significantly reduced.

Thus, legal liability in civil risks is not only related to reactive legal actions, but also encompasses strong preventive and managerial strategies. Company managers must recognize that failure to manage legal relationships with stakeholders can result in significant losses, both material and reputational, as well as personal lawsuits that can damage their careers and professional credibility.

### 4. Risk Prevention through GCG Principles and Business Judgment Rule

To avoid and mitigate legal risks that may befall directors and commissioners, implementing Good Corporate Governance (GCG) principles is a crucial step. GCG is a set of corporate governance principles that emphasize transparency, accountability, responsibility, independence, and fairness in company management. The application of these principles is not merely normative, but also serves as a legal and managerial instrument that can significantly prevent legal violations.(Gregory Jeandry et al., nd).

Through the principle of transparency, companies are required to provide material and relevant information in a timely manner to stakeholders. This information includes financial reports, strategic decision-making, and changes to organizational structure. Accountability, on the other hand, requires clear functions and structured accountability reporting from every company organ, particularly the board of directors and commissioners. The principle of responsibility requires company management to comply with all laws and regulations and act in accordance with ethical business values.

To support the effective implementation of GCG, companies need comprehensive internal policies, such as a code of ethics, a code of conduct, and a whistleblowing system. A good whistleblowing system provides a safe channel for employees or other internal parties to report suspected violations without fear of retaliation. This forms part of an effective early warning system to prevent legal risks.(Admojo et al., 2025).

In addition to GCG, another crucial legal principle in the context of protecting directors and commissioners is the Business Judgment Rule (BJR). This principle provides legal protection for directors for their business decisions, as long as they are made in good faith, free from conflicts of interest, based on adequate information, and within the authority of the board. Within this framework, directors cannot be held legally accountable for business decisions that result in losses, as long as the entire decision-making process adheres to the principles of prudence and reasonable rationality.

However, the implementation of the Business Judgment Rule requires complete and transparent documentation. All stages of the decision-making process, from initial review and internal discussions to consultations with legal counsel, to approval by other bodies such as the board of commissioners or the General Meeting of Shareholders (GMS), must be systematically recorded. This is crucial as evidence should the decision become the subject of legal examination, whether in an administrative, criminal, or civil context.

It's important to remember that the Business Judgment Rule is not an absolute "legal shield." Managers are not automatically exempt from legal liability simply because they claim an action was a business decision. If it's proven that the decision was made recklessly, involved a conflict of interest, or was made without adequate analysis, the protection of the Business Judgment Rule (BJR) does not apply, and managers can still be held legally accountable.

Proper implementation of GCG and BJR principles also provides broader strategic benefits, such as increasing investor confidence, strengthening the company's reputation, and supporting long-term business sustainability. In an increasingly complex and tightly regulated business environment, strengthening a culture of good governance is no longer an option, but a necessity.

Thus, legal risk prevention through GCG and Business Judgment Rule not only protects the management personally, but also strengthens the company's resilience in facing business dynamics and ever-evolving legal challenges.

## IV. CONCLUSION AND SUGGESTIONS

### A. Conclusion

Directors and commissioners play a strategic role in maintaining the company's sustainability and integrity, but they also bear significant legal responsibilities in three areas: administrative, criminal, and civil. In practice, the boundaries between corporate and personal liability are not entirely clear, often creating legal uncertainty for managers. Administrative liability arises from violations of sectoral regulations, criminal liability arises from involvement in corporate crimes, and civil liability arises from default or unlawful acts.

Principles such as fiduciary duty, duty of care, and duty of loyalty form the basis for assessing the compliance and good faith of managers, while the business judgment rule provides protection as long as business decisions are made professionally and without conflicts of interest. However, for this protection to apply, every decision must be well-documented and based on rational analysis.

The implementation of Good Corporate Governance principles is a crucial element in preventing legal risk. Transparency, accountability, and a robust internal oversight system will help minimize the potential for violations. Therefore, legal reform and strengthening corporate governance structures are crucial steps to clarify accountability standards and create legal certainty for directors and commissioners amidst the complexities of the modern business world.

## B. Suggestion

Based on the study's findings, it is recommended that the government and lawmakers revise and harmonize existing laws and regulations governing the responsibilities of directors and commissioners, particularly to clarify the boundaries between corporate and individual responsibilities. Supervisory authorities such as the Financial Services Authority (OJK) and the Ministry of Law and Human Rights are also expected to develop more detailed guidelines or operational standards regarding the application of the principles of prudence and good faith in corporate management practices. Furthermore, companies need to strengthen the comprehensive implementation of good corporate governance (GCG) principles as a preventative measure against potential legal risks. Further research is also recommended to conduct comparative studies with legal systems in other countries to provide a broader perspective on developing a legal accountability system for directors and commissioners in Indonesia.

## REFERENCE LISTAN

Admojo, M. Y. S., Ramadhandy, H. K., Afifuddin, M., Kusumaningtias, R., & Kusumaningsih, A. (2025). Implementasi Good Corporate Governance Dalam Menanggapi Tindak Korupsi Study Kasus PT Pertamina. *Innovative: Journal Of Social Science Research*, *Vol.5*(No.4), hlm.970-980.

Arifin, A. P. S., & Sodikin, S. (2025). Penerapan Prinsip Fiduciary Duty Untuk Mewujudkan Good Corporate Governance Dalam Perseroan Terbatas. *Journal of Contemporary Law Studies*, *2*(2), 173–184.

Cevitra, M., & Djajaputra, G. (2023). Perbuatan Melawan Hukum (Onrechtmatige Daad) Menurut Pasal 1365 Kitab Undang-Undang Hukum Perdata Dan Perkembangannya. *UNES Law Review*, *6*(1), hlm.2722-2731.

Gregorius Jeandry, S. E., Ak, M. S., Ismul Aksan, S. E., Ak, M., Risky Soleman, S. E., & Akun, M. (n.d.). *Good Corporate Governace: Teori, Studi Kasus & Kuis*. Penerbit Adab.

Hadi, Z. (2011). *Karakteristik Tanggung Jawab Pribadi Pemegang Saham Komisaris dan Direksi dalam Perseroan Terbatas*. Universitas Brawijaya Press.

Hapsari, A. A., SE, M. M., & GRCE, C. (2025). *Manajemen Risiko Keuangan: Strategi Proteksi dan Pengambilan Keputusan*. Takaza Innovatix Labs.

Husin, H. (2023). *REKONSTRUKSI REGULASI TANGGUNG JAWAB DIREKSI SEBAGAI ORGAN PERSEROAN TERBATAS BERBASIS NILAI KEADILAN*. UNIVERSITAS ISLAM SULTAN AGUNG.

Kelvianto, I., & Mustamu, R. H. (2018). Implementasi prinsip-prinsip good corporate governance untuk keberlanjutan usaha pada perusahaan yang bergerak di bidang manufaktur pengolahan kayu. *Agora*, *6*(2), 1–7.

Kuswiratmo, B. A., & SH, M. H. (2016). *Keuntungan & Risiko Menjadi Direktur, Komisaris, dan Pemegang Saham*. Visimedia.

Mahmud Marzuki, P. (2005). Penelitian hukum. *Jakarta: Kencana Prenada Media*, *55*.

Natalia, B. (2024). Tanggung Jawab Direksi Dalam Kejahatan Bisnis Asuransi. *Jurnal Ilmiah Wahana Pendidikan*, *10*(15), 126–134.

Nurdiani, P., Prastianti, P., Andriansyah, M., Pransiska, S., Maryani, N., Chaurisma, F. Y., Nurandin, S., Patikasari, W., Putra, M. G. F. A., & Wulandari, W. (2025). Mekanisme Pengungkapan Fraud: Studi Kasus Hambalang Dan Skandal PT Garuda Indonesia. *Jurnal Akuntansi Keuangan Dan Bisnis*, *2*(4), 1982–1988.

Pahlevi, R. R., Zaini, Z. D., & Hapsari, R. A. (2021).

Analisis Perbuatan Melawan Hukum (Onrechtmatigedaad) Terhadap Sengketa Kepemilikan Hak Atas Tanah. *Pagaruyuang Law Journal*, *5*(1), 18–28.

Penyusun, T. (2021). Penilaian Risiko Indonesia Terhadap Tindak Pidana Pencucian Uang Tahun 2021. *Jakarta: PPATK*.

Ristamana, Y. (2022). *Perampasan Aset Terpidana Korupsi Yang Diperoleh Dari Hasil Tindak Pidana Korupsi Sebagai Pengganti Kerugian Keuangan Negara Pada Perkara Tindak Pidana Korupsi Jiwasraya (Studi Kasus di Kejaksaan Negeri Jakarta Pusat)*. Universitas Islam Sultan Agung (Indonesia).

Siringoringo, H., & Firdaus, R. (2024). PERAN SISTEM INFORMASI AKUNTANSI DALAM PENGELOLAAN RISIKO DAN KEPATUHAN PERUSAHAAN TERHADAP REGULASI. *Jurnal Intelek Dan Cendikiawan Nusantara*, *1*(5), 8916–8923.

Sitanggang, N. H. U., Manik, C. W., Ginting, H. N., & Matondang, K. A. (2025). Etika Bisnis Dalam Konteks Globalisasi: Tantangan Bagi Perusahaan Lokal Di Pasar Internasional. *Jurnal Ilmiah Wahana Pendidikan*, *11*(6. D), 230–241.

Zihranastiar, R., Nurfadila, A., Azlinah, D. R. N., Carolina, O. S., & Anjani, N. A. D. (2025). Analisis Peran Strategis Manajemen Risiko dalam Mitigasi Tanggung Jawab Hukum Direksi dan Komisaris: Studi pada PT Kalbe Farma Tbk. *Integrative Perspectives of Social and Science Journal*, *2*(03 Juni), 3199–3207.