



Authority of Regional Supervisory Council and Protocol Receiving Notaries in the Delivery of Protocols Who Has Died in Badung Regency

I Putu Angga Raditya Prihandana^(✉), I Nyoman Sujana, and A. A Istri Agung

Master of Notary, Postgraduate Program, Warmadewa University, Denpasar, Indonesia
rangga.aditz6969@gmail.com

Abstract. The jurisdiction of the Regional Supervisory Council (MPD) and the Notary Recipient of the Protocol in submitting the Protocol of a deceased Notary is examined in this article. Following the death of a notary in Badung Regency, it was discovered that the notary protocol had not been filed for more than two years by the notary's heirs. The authority Regional Supervisory Council (MPD) Badung Regency in following up on the submission of a Notary protocol who has deceased is the topic of the research in this article. The research methodology is judicial empirical. 1) field research including interviews and 2) library research were employed to acquire data for this study. The approach is both legal and social. Based on the analysis results, the protocol submission of a notary who dies must be made no later than 30 (thirty) days after the protocol submission report is made. However, some heirs do not submit the notary protocol to the notary who receives the Protocol assigned by the Regional Supervisory Council (MPD) Badung Regency until the time limit has passed, which breaches the stipulations of Article 63 paragraph (1) UUJN-P. The Regional Supervisory Council (MPD) Badung Regency was granted the ability to adopt the Protocol in this event. However, it did not carry it out in accordance with Article 63 paragraph (6) of the UUJN-P since there was no formal report on the delivery of the Notary Protocol to the notary receiving the Protocol.

Keywords: Notary Protocol · Regional Supervisory Council · Notary Who has Died

1 Introduction

The Republic of Indonesia is a state of law, as stated in Article 1 paragraph (3) of the Republic of Indonesia's 1945 Constitution. The explanation of the Republic of Indonesia's 1945 Constitution stresses that the Indonesian state is established on the rule of law (Rechtsstaat), rather than brute force (machsstaat). As a consequence, it is clear that the rule of law ideals stated in the Republic of Indonesia's 1945 Constitution are more than just a state established on arbitrary laws. The desired law is not totally based on authority, as this might result in or represent unlimited or totalitarian power. This is not a just legislation based on justice for the people.

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The rule of law foundation ensures legal certainty. Legal certainty indicates that someone will be able to get what is expected under stated conditions. Certainty is defined as the clarity of standards to the point that they may be used as recommendations for the community affected by this legislation. Certainty may be characterized as clarity and firmness in enforcing the law in society in order to avoid many misinterpretations [1].

Individual and communal responsibility, including adherence to legal norms, must be balanced against the rapid advancement of civilization. The rapid growth of Indonesian economic competence has an impact on their high level of legal understanding. Legal relationships in society, as well as the duty of a Notary, are quite complicated. As a result, it is becoming increasingly difficult to adequately define the duties and tasks of a Notary [2].

Utrecht defines law as “a collection of life instructions, directives, and prohibitions that regulate the order in a society and should be observed by members of the community involved since infractions of these life instructions might result in action by the government or the authorities of that society.” [3] As a result, the law is a system of norms that evolve from and within the context of human existence. The notion of human consciousness as a social phenomenon resulting from correct assessments of human conduct in their social lives underpins the emergence [4].

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As a public official, a notary offers services to the community in the form of a valid deed; hence, the principle of prudence and confidence provided by the community and the state must be maintained on a continuous basis so that the public does not lose faith in the Notary. The nature of a Notary’s work as a public official who performs some public functions of the state, particularly in the field of civil law, has its own characteristics and can pose a high risk if the public’s trust in Notaries is not protected and strictly monitored on a regular and strict basis, particularly when performing an authentic deed used as a right and obligation for the maker. The UUJN-Article P’s 17, paragraph 1 governs how notaries behave or perform out their tasks and positions, including the prohibition on becoming a notary. If the Notary breaks the prohibition, he or she will face repercussions under UUJN-P Article 17, paragraph 2 [7].

Article 62 of the UUJN-P governs the reasons for submitting the Notary Protocol. One of them is a recently dead Notary. According to the applicable legislation, the protocol of a deceased Notary is given to a Notary appointed by the Regional Supervisory Council. “The submission of the Notary Protocol is carried out no later than 30 (thirty) days following the creation of an official report on the submission of the Notary Protocol, which is signed by the submitter and the recipient of the Notary Protocol,” according to Article 63 UUJN-P.

The filing deadline is solely governed by the requirements relating to Article 63 of the UUJN-P. There is no clarification in the text regarding the method for submitting

the Notary protocol after the deadline has gone. For example, in one case involving the filing of a Notary protocol by a deceased person, the time limit exceeds 1 (one) month and can reach 2 (two) years. Die. Notary I Dewa Komang Mahadewa, for example, died while serving in Badung Regency.

They regarded the Supervisory Board as a body with the capacity and responsibility to supervise and monitor Notaries. The Minister formed the Notary Supervisory Agency to assign his responsibility for managing and developing Notaries. If the Notary Protocol is not filed within 30 (thirty) days, as required by Article 63 paragraph (6) of the UUJN-P, the Regional Supervisory Council (MPD) has the ability to seize the Notary Protocol if a Notary dies. The Notary's heirs have yet to submit the Notary protocol to the Regional Supervisory Council-appointed Notary Protocol Recipient (MPD). Under the Act, the Regional Supervisory Council (MPD) has broad authority to settle ongoing Notary protocol problems. The researcher intends to investigate the authority of the Regional Supervisory Council (MPD) and the Notary Protocol Recipient in submitting the Notary Protocol for a person who died in the Badung Regency based on this description.

2 Method

In this article, an empirical legal research technique was used. In order to obtain data, empirical juridical studies must adhere to legal aspects as well as research findings and local reality [8] The study of empirical juridical law focuses on legal behavior, or the actual behavior of persons or society in line with current legal norms. This study's objective topics were the Regional Supervisory Council (MPD) and a Notary appointed by the Regional Supervisory Council (MPD) to accept the protocol of a dead Notary. Legally (law is seen as a standard or should), empirically (law as a social, cultural or *das sein* reality). In this analysis, the researcher used both legislative and sociological approaches. Legislative strategy (statute approach), which entails researching all applicable laws and regulations to the legal issue at hand [9] A sociological approach is one that progresses from community behavior or practice to societal ideas [10] Primary data were collected directly from respondents via in-depth interviews and direct field observations utilizing interview procedures. The authors' experiences, thoughts, and remarks obtained from information from sources and/or respondents concerning the legal issues under examination represent the primary data in this study. While the secondary data in this article may be classified into two types: Primary legal materials are those that result from the existence of legal concepts and norms that control society. Like:

- the 1945 Constitution of the Republic of Indonesia;
- Civil Code;
- Law Number 30 of 2004 concerning the Position of a Notary;
- Law No. 2 of 2014, amending Law No. 30 of 2004 respecting the Position of a Notary;
- Regulation No. 19 of 2019 of the Minister of Law and Human Rights of the Republic of Indonesia about the Terms and Procedures for Appointment, Leave, Transfer, Dismissal, and Extension of the Term of Office of a Notary;

- Regulation No. 16 of 2021 of the Minister of Law and Human Rights of the Republic of Indonesia about the Organizational Structure and Work Procedures, Appointment and Dismissal Procedures, and Budget of the Notary Supervisory Council.
- Secondary Legal Material, which are legal resources that are connected to primary legal materials and can aid in the analysis of primary legal materials. Secondary legal sources employed in the research include scientific books, journals, and other publications.

Using field research approaches, the author acquires relevant data for the title under inquiry in this legal research (field study). This study's data analysis method is qualitative analysis, which focuses on the process of deductive and inductive reasoning as well as the dynamics of the relationship between observable occurrences utilizing scientific logic. In its further development, qualitative analysis departs from empirical analysis and is supported by normative (legal) analysis. It is carried out in compliance with the law by taking into consideration the facts acquired, which are then consolidated, linked, and compared with the requirements outlined in Article 63 UUJN-P. Deductive conclusions are drawn based on the analytical results, which is a way of reasoning based on broad facts and then drawing particular conclusions.

3 Discussion

3.1 The Authority of the Regional Supervisory Council and the Notary Recipient of the Protocol in Submitting the Protocol of a Notary Who Dies in Badung Regency

Notary roles are public positions with private legal obligations. The Notary Supervisory Board supervises the Notary in carrying out his duties as a public official to make authentic deeds so that the Notary position regulations and the Notary Code of Ethics can be appropriately implemented, and the Notary in carrying out his duties always pays attention to the terms and conditions set by law to ensure legal certainty for the parties. Who was on the same page?

Article 1 number (6) of the UUJN-P provides the legal framework for notary supervision in carrying out their obligations and positions, stating that the Notary Supervisory Council is a body with the authority and responsibility to oversee notaries. The supervisory function of the Notary is intended to ensure that he always complies with the provisions of the applicable laws and regulations in carrying out his duties, because if he is found to have violated them, he will face sanctions ranging from verbal warnings to written warnings, temporary dismissal to dishonorable discharge. Furthermore, because a Notary is a position that provides community services as well as an explanation of the applicable rules and regulations, monitoring by a Notary is essential.

The Regional Supervisory Council (MPD) at the Regency/Municipality level is the spearhead of Notary supervision in the regions, with the duty and authority to supervise and provide guidance to Notaries in carrying out their positions, as well as giving approval and giving approval to the taking of minutes and summons of Notaries. In the examination pertaining to the deed he performed in accordance with the terms of Article 66 UUJN-P, as well as other authorities possess.

Notary supervision in Badung Regency consists of components of legal protection for Notaries in carrying out their obligations and positions as public officials. In the Badung Regency, notaries are typically overseen in compliance with the Code of Ethics and the Law on Notary Positions. The supervisory activities of the Badung Regency Notary Regional Supervisory Council (MPD) involve controlling and observing, as well as paying attention to, conserving, and offering intelligent direction on the Notary's rights, responsibilities, and authority.

Based on the facts on the ground, after the death of o According to the facts on the ground, there has been no turnover of the Notary protocol since the death of one of the Notaries in the Badung Regency Work area, Notary I Dewa Komang Mahadewa, on February 9, 2020. The Notary's heirs have informed the Regional Supervisory Council (MPD) of Badung Regency about his death. The Regional Supervisory Council (MPD) then issued a letter naming the receiver of the Notary Protocol, namely I Wayan Rusmawan, SH, M.Kn Notary with a working area in Badung Regency, and Notary I Wayan Rusmawan has made a letter of desire to accept the Notary Protocol. The family or heirs opposed to the nomination of a Notary who received the Protocol, according to I Wayan Rusmawan.

If a Notary dies, the husband/wife or blood relations in a straight line of marriage to the second degree must notify the Regional Supervisory Council, according to the Law on the Position of Notary (MPD). This is stated in UUJN-P Article 35, Section 1. The Regional Supervisory Council (MPD) is notified within 7 (seven) working days.

Until this research was conducted in 2022, there was no submission of the Notary protocol from the heirs to the Notary recipient of the Protocol who was appointed by the Regional Supervisory Council (MPD) under the provisions of Article 63 UUJN -P in the case of Notary I Dewa Komang Mahadewa's death on February 9, 2020. According to Notary I Wayan Rusmawan's statement as the Notary Recipient of the Protocol appointed by the Regional Supervisory Council (MPD), there has been no handover of the Notary Protocol or any files related to documents belonging to the late Notary I Dewa Komang Mahadewa before or after the Regional Supervisory Council (MPD) of Jakarta issues a letter appointing the Notary Recipient of the Protocol.of Badung Regency.

Notary I Wayan Rusmawan added that, because he felt he had a great responsibility in naming himself as a Notary recipient of the Notary Protocol, he first communicated directly with the deceased Notary's heirs and employees and was able to visit the Notary's office to ensure the Protocol's completeness. The volume of the minutes of the act and warkah, as well as other material that enters the Notary's Protocol, will be delegated.

As a Notary Recipient of the Protocol appointed by the Regional Supervisory Council (MPD) of Badung Regency, he is required to swiftly tidy up, count, bind the minutes of unbound deeds, and seek a list of work arrears that the deceased has not completed. Communication with the deceased's heirs has already taken place, and a time limit has been set in order for the Notary process to be given as soon as possible while retaining the authenticity of the minutes. The Protocol, however, has not yet been delegated. Notary Wayan Rusmawan has declared that he is prepared to accept the Protocol in any shape it may take.

If a Notary dies, his heirs will transfer the Notary Protocol to another Notary appointed by the Regional Supervisory Council, according to Article 63 paragraph

(2) UUJN-P. (MPD). In this case, the Badung Regency Regional Supervisory Council (MPD) responded by granting a letter of appointment to the Protocol's Notary Recipient, in compliance with academic requirements. At the same time, Dr. Ketut Sukawati Lanang Perbawa, SH, M.Hum., Chairman of Badung Regency's Regional Supervisory Council (MPD), has carried out the responsibilities and powers prescribed by the Law on Notary Positions, namely reviewing the performance of Notaries in their working territories.

Concerning the case of Notary I Dewa Komang Mahadewa's death, which has yet to be carried out, and several obstacles from the Badung Regency Regional Supervisory Council (MPD), the Regional Supervisory Council (MPD) has approached the heirs through the protocol recipient notary appointed by the Assembly. According to the Chairman of the Regional Supervisory Council (MPD) of Badung Regency, it is impossible to interact directly with the deceased's heirs since they live outside of the city. However, the Regional Supervisory Council (MPD) of Badung Regency will promptly consider this issue with members of the Regional Supervisory Council (MPD) protect the protocol [12].

Authority (*bevoegdheid*) is defined in public law or seen as legal power, according to Philipus M. Hadjon (*rechtsmacht*). Meanwhile, according to Prajudi Atmosudirdjo, authority is defined as formal power, which is power derived from the law or Legislative Power, as well as the existence of executive/administrative power.

The theory of authority is used in this study to discuss and answer questions about the authority granted by the State or Government to the Notary Regional Supervisory Council (MPD) and the Notary recipient of the Protocol relating to the submission of the Protocol of a Notary who has died after the time limit stated—determined by law—has passed. The power granted by the State is determined by the ability of State Institutions or Public Bodies to carry out their commitments and operations. Authority is defined in this context as the power to act in order to carry out legal acts and relationships as stipulated by law.

The Notary Protocol is an important state archive that must be stored and guarded by the Notary since it is a shred of genuine and solid proof if there is a future disagreement between the parties in a deed. If the Notary in issue no longer operates as a Notary, or for any other reason, the Notary Protocol is submitted or transferred to another Notary as Holder of the Notary Protocol, and the parties participating or connected in a deed wish to get documents from a previous deed. These papers will thereafter be easily accessible with the Notary Protocol from the Notary that has been submitted or transferred to another Notary who has been appointed as the Notary Protocol Holder.

Article 63 paragraph (2) governs the transfer of the Notary protocol from the deceased Notary heirs to another Notary as the recipient of the Protocol appointed by the Regional Supervisory Council (MPD) as the Holder of the Notary protocol, namely if the event described in Article 62 letter a occurs, the heirs of the Notary carry out the submission of the Notary protocol to another Notary appointed by the Regional Supervisory Council (MPD). In practice, however, Notary heirs who have not submitted the Notary protocol to another Notary as the Holder of the Notary protocol, as occurred in the case of Notary I Dewa Komang Mahadewa's death, continue to exist.

The Badung Regency Notary Public's Regional Supervisory Council (MPD) should act immediately and proactively to correct the neglected Notary procedure. The Regional Supervisory Council (MPD) of Badung Regency's lack of firmness in taking a stand on problem-solving against the neglected Notary protocol, which contains an authentic deed that can be used as evidence if there are parties who require the Notary protocol causing problems- problems that will harm society. A Notary Deed has entire evidentiary authority as a genuine deed and does not need to be proven or backed with extra proof. If any of the parties claims that the deed is unconstitutional.

In this situation, the heirs of the deceased Notary received no action from the Regional Supervisory Council (MPD) for taking the Notary Protocol, which was supposed to be presented to the Notary receiving the Protocol. As a result, as a solution, the Regional Supervisory Council (MPD) acts decisively, namely by taking the Protocol of the deceased Notary in accordance with the instructions of Article 63 paragraph (6) of the UUJN-P or submitting a report to the Regional Supervisory Council (MPW) regarding the issue of Notary I Dewa Komang Mahadewa, but if it is not successful, it will be submitted or reported to the Central Supervisory Council (MPP) for.

If a Notary dies, the Regional Supervisory Council's (MPD) firmness in taking this step is critical. The Notary heirs have not submitted the Notary protocols to the Regional Supervisory Council (MPD), and there is no Notary in possession of the Protocol. The Regional Supervisory Council (MPD) worked quickly and pro-actively to remedy the disregarded Notary procedure. The Regional Supervisory Council (MPD) now has full jurisdiction under the legislation to settle outstanding Notary protocol issues.

The Notary Position Act exclusively governs the procedure for leaving the Notary protocol. The logical result of this regulation is that the Badung Regency's Regional Supervisory Council (MPD) has not been efficient in carrying out its authority. The Regional Supervisory Council (MPD), which is authorized by law to adopt the Notary protocol, has also been unable to carry out its responsibilities correctly and adequately. With the existence of a Notary procedure who has died in the region, the jurisdiction of the Regional Supervisory Council (MPD) is frequently not utilized. It has been more than two (two) years after the Notary died in Badung Regency, which is still hanging.

Regulations or legal aspects related to Notary protocols have not been thoroughly regulated, particularly regarding the responsibility of Notary heirs who do not immediately submit the Notary protocol to another Notary appointed by the Regional Supervisory Council (MPD) as the Notary holding the Protocol. The Notary Protocol is provided to safeguard the confidentiality of the deed's contents and existence so that if it is ever required for a purpose, it can be readily searched and discovered. As stipulated in Article 63 paragraph (1) UUJN-P, minutes in the submission of the Notary Protocol are an obligation related to the status of a Notary.

In the event of Notary I Dewa Komang Mahadewa's death in Badung Regency, the deceased's heirs failed to submit the Notary Protocol as required by the Notary Position Act and other legislative restrictions. As a result, the legal position of the Notary who receives the Notary Protocol is not yet legitimate because there has been no transfer of the Protocol and no minutes of protocol submission have been created.

Notary I Wayan Rusmawan, as a Notary appointed by the Regional Supervisory Council (MPD) of Badung Regency, cannot exercise his authority under the provisions

of Article 64 paragraph (2) UUJN, namely the Notary receiving the Protocol is authorized to issue a Grosse deed, a copy of the deed, or a deed excerpt from the minutes of the deed that is part of the Protocol. Failure to submit the Protocol of a Deceased Notary can be fatal and result in significant material losses to the community who will or will still require the deed contained in the Deceased Notary for legal certainty.

The heirs of a Notary who dies on the Protocol face no consequences. However, because there is no punishment, the heirs frequently overlook the Protocol problem, which must be immediately filed to the Notary who receives the Protocol. In addition to concerns with outstanding work, the death of a Notary will leave other issues with the Notary protocol. A notary Protocol is a collection of state archives papers that a Notary is required by law to preserve and maintain. The preservation and maintenance of the Notary Protocol continues even after the Notary has retired or died. As the Holder of the Notary Protocol, the Notary Protocol is handed to another Notary.

Sometimes the heirs of a dead Notary are unfamiliar with the methods or procedures for transitioning the Notary protocol. This is due to a lack of socialization of the Notary protocol, which occurs from the Notary to his family, the Notary to his employees, the Regional Supervisory Council (MPD) and the Notary organization to the Notaries, and the Regional Supervisory Council (MPD) and the Notary organization to the broader community. Because of a lack of socialization surrounding the Notary Protocol, the public is unsure who need the Protocol, which should be preserved and presented to a Notary appointed by the Regional Supervisory Council (MPD).

To be in compliance with the rules, the Regional Supervisory Council (MPD) must be strict in reporting and adhering to the procedures of the deceased Notary. The Notary Position Act has given the Notary Supervisory Council entire authority to supervise Notaries and Notary deeds in carrying out their obligations as Notary protocol holders using the procedures and processes provided in the Notary Position Act.

As specified in Article 35 UUJN-P, once a Notary dies, the whole archive or Protocol must be transferred to another Notary as the Notary receiving the Protocol by the dead Notary's heirs. If a Notary dies, the spouse, wife, or blood relatives in a direct line of marriage to the second degree of inheritance shall inform the Regional Supervisory Council (MPD) of the Notary in the dead Notary's working area no later than 7 days after the Notary's death (seven).

4 Conclusion

In reaction to the death of one of the Notaries in In Badung Regency's working region, the Regional Supervisory Council (MPD) issued a letter of appointment to the Protocol's Notary receiver. However, the Badung Regency Regional Supervisory Council (MPD) has not exercised its authority as specified in Article 63 paragraph (6) of the UUJN -P, which gives the Regional Supervisory Council (MPD) full authority to take a Notary protocol that is not submitted within 30 (thirty) days, resulting in the heirs keeping the notary protocol for more than 2 (two) years. In the absence of a submission of the Notary protocol under the requirements of Article 63 paragraph (1) UUJN-P, the submission of

the Notary protocol should be completed no later than 30 (thirty) days by making an official report on the submission of the Notary protocol.

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