



Authority of the Mataram City Regional Supervisory Council to Examine Notaries Based on Permenkumham Number 15 of 2020

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ABSTRACT

This study aims to analyze the regulation and implementation of the authority of the Mataram city notary supervisory council on notary examinations based on the Minister of Law and Human Rights Regulation number 15 of 2020. Normative-empirical research with legislative, conceptual and sociological approaches in qualitative descriptive analysis, the data used are primary, secondary and literature research materials and field research. Concluded; First, the authority of the notary supervisory council in Mataram City is guidance for preventive measures and supervision of repressive actions. Second, the obstacles in carrying out notary supervision in Mataram City are; The legal factor needs to be added to the content material that regulates administrative sanctions, both in the form of verbal reprimands, written reprimands and dismissals for members and the content of the authority to determine sanctions by the Notary MPD. Meanwhile, law enforcement factors need to reschedule the schedule during the Notary examination so that all the objectives can be present so that the examination is maximized, and the role of the NTB Notary MPW to provide education and training, FGD and socialization of regulations so as to provide the same understanding in the Notary examination in Mataram City.

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INTRODUCTION

The State of the Republic of Indonesia has a legal basis that governs the life of the nation and state, Pancasila as the idyllic foundation is the basic ideology of the state, which was born from the noble values of the nation, and the 1945 Constitution as the basis of the constitution to provide guarantees of certainty, maintain order, and protect the legal rights of every citizen. both at home and abroad. Meanwhile, theoretically, the purpose of the law is to realize justice, usefulness and certainty. And in order for certainty, order, and legal protection to be guaranteed, authentic documents are needed as written evidence. aims to have a document that firmly establishes the rights and obligations of individuals as legal subjects in society.

Notaries as public officials appointed by the State have the duty to make authentic deeds on the basis of trust, so they are required to be professional and comply with and implement the Law and the code of ethics of the Notary position, because notaries are very closely related to legal acts and legal events, so that they are able to provide legal protection for clients in particular and the community in general and provide legal services and provide guarantees of certainty for the parties. The implementation of duties and functions must have guidelines so that there is no abuse of authority, such as making an authentic deed as one of the strongest and most complete evidence. Notaries, especially in making their deeds, are prone to being caught in the law, not only from internal factors such as negligence in carrying out their duties, not complying with

procedures, not carrying out professional ethics, but also faced with false documents that contain legal consequences for their owners. Therefore, all authentic deeds made by or in front of a Notary need to be supervised for their correctness by a supervisory institution to ensure and direct that the implementation of the Notary's duties and work runs properly.

In an effort to increase the control and supervision of each performance of the Notary profession, the government established a Notary Supervisory Council which has the authority and obligation to carry out guidance and supervision of Notaries which includes the behavior and implementation of the position of Notary. This is regulated in Article 67 of the UUJN. And the Supervisory Board as a body that has the authority and obligation to carry out guidance and supervision of Notaries. This body was formed by the Minister, and the Minister as the head of the Department of Law and Human Rights has the task of assisting the President in organizing some government affairs in the field of law and human rights. The Notary Supervisory Council, hereinafter referred to as the Supervisory Council, is given the authority to conduct guidance and supervision of Notaries as stipulated in article 1 paragraph (6) of Law Number 02 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, hereinafter referred to as the UUJN.

In addition to coaching and supervision, the Notary Supervisory Council also conducts inspections, as contained in the provisions of Article 2 of Permenkumham 15 of 2020 concerning Procedures for the Inspection of the Supervisory Council of Notaries. Thus, Notaries who are suspected of violating the Notary code of ethics or violating the UUJN, the authority to provide guidance and supervision is the Supervisory Council according to the central, regional and regional levels. The Notary Regional Supervisory Council (MPD) is given the authority to supervise Notaries, so that Notaries carry out their duties in accordance with the laws and regulations that govern the position of Notary, so that they can provide guarantees of protection for clients in particular and the wider community in general as well as on the basis of professional morals and ethics for the sake of ensuring legal protection and certainty for the community.

It is undeniable that the more the number of notaries, the more obstacles that must be faced by the Notary MPD in carrying out its role, so to see whether the MPD, data was obtained that the Mataram City Notary MPD had 69 (sixty-nine) Notaries who had a working area in Mataram. Where these notaries carry out many activities related to their authority in issuing authentic deeds, the supervision of notaries carried out by the Notary Supervisory Council is very important in providing legal protection to the community. This research is to find out the authority of the Notary Regional Supervisory Council in carrying out supervision by the Mataram City Notary MPD, so that the philosophical idea of the presence of the notary position can be realized with certainty and legal protection.

Based on the description mentioned above, the formulation of the problem was determined, namely: First, what is the authority of the regional supervisory council in notary supervision in Mataram City? Second, what are the obstacles and efforts made by the regional supervisory council in carrying out notary supervision in Mataram City?

METHODOLOGY

This research uses a type of empirical legal research, which is research that examines the applicable legal provisions and what happens in reality in society, including research on the identification and effectiveness of the law, or in other terms commonly called sociological legal research or also called field research. The approach used in this study is the Statute Approach; conceptual approach (Conceptual Approach) of the legal issue being studied. And Sociological Approach. The data analysis technique carried out by the researcher is qualitative descriptive, where the data collected, compiled, and explained are then analyzed.

RESULT AND DISCUSSION

Authority of the Regional Supervisory Council in notary supervision in Mataram City

In an effort to increase the control and supervision of each performance of the Notary profession, the government established a Notary Supervisory Council which has the authority and obligation to carry out guidance and supervision of Notaries which includes the behavior and implementation of the position of Notary. This is regulated in Article 67 of the UUJN, which reads;

1. Supervision of Notaries is carried out by the Minister.
2. In carrying out supervision as intended in paragraph (1), the Minister shall establish a Supervisory Board.
3. The Supervisory Board as referred to in paragraph (2) consists of nine people, consisting of: Government as many as 3 people, Notary Organization as many as three people, Experts/academics as many as three people.
4. In the event that a region does not have elements of government agencies as in paragraph (3) letter a, membership in the Supervisory Board is filled by other elements appointed by the Minister.
5. Supervision as intended in paragraph (1) includes the behavior of the Notary and the

implementation of the position of Notary.

6. The provisions regarding supervision as intended in paragraph (5) apply to Substitute Notaries, Special Substitute Notaries, and Temporary Notary Officers.

It is briefly explained that the Supervisory Board is a body that has the authority and obligation to carry out guidance and supervision of Notaries. This body was formed by the Minister, and the Minister as the head of the Department of Law and Human Rights has the task of assisting the President in organizing some government affairs in the field of law and human rights. The Notary Supervisory Council, hereinafter referred to as the Supervisory Council, is given the authority to conduct guidance and supervision of Notaries as stipulated in article 1 paragraph (6) of Law Number 02 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position, hereinafter referred to as the UUJN, reads: "The Notary Supervisory Council, hereinafter referred to as the Supervisory Council, is a body that has the authority and obligation to carry out guidance and supervision of Notaries".

In addition to coaching and supervision, the Regional Supervisory Council of Notaries of Mataram city also conducts inspections, as contained in the provisions of Article 2 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 (Permenkumham 15 of 2020) concerning Procedures for the Examination of the Supervisory Council of Notaries, which reads: "The Supervisory Board is authorized to conduct guidance and supervision of Notaries and conduct examinations of alleged violations of behavior and the implementation of the position of Notary". Thus, Notaries who are suspected of violating the Notary code of ethics or violating the UUJN, the authority to provide guidance and supervision is the Supervisory Council according to the central, regional and regional levels.

Considering that the duties and positions of Notaries in society are very important, in the implementation of the duties of the Notary position, they must always be supervised so as not to cause losses to the community. This is in line with the theory of supervision put forward by G.R Terry, namely supervision or controlling means determining. what is carried out, evaluate work performance and if necessary apply corrective actions so that the results of the work are in accordance with the plan.

Supervision of Notaries includes supervision of the behavior of Notaries and the implementation of the notary office is carried out by the Minister of Law and Human Rights which in its implementation is carried out by the Supervisory Council, and the Notary Organization establishes the Notary Code of Ethics. The authority and procedures of the Supervisory Board to supervise Notaries have been described in the Law on the Position of Notary in conjunction with the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia (Permenkumham RI) Number 15 of 2020 concerning Amendments to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004 concerning Procedures for the Examination of the Supervisory Council of Notaries in conjunction with the Decree of the Minister of Law and Human Rights of the Republic Indonesia Number M.39-PW.07.10 of 2004 concerning Guidelines for the Implementation of the Duties of the Notary Supervisory Council. Supervision by the Assembly is curative in nature, including coaching activities for Notaries.

The authority of the Mataram City Regional Supervisory Council is contained in the provisions of article 70 of the UUJN which reads, as follows:

"The Regional Supervisory Assembly is empowered:

- a. Holding a hearing to examine the alleged violation of the Notary Code of Ethics or violation of the implementation of the Notary position;
- b. Conducting periodic inspections of the Notary Protocol 1 (one) time in 1 (one) year or whenever deemed necessary;
- c. Granting leave permission for up to 6 (six) months;
- d. Assign a Substitute Notary by taking into account the proposal of the Notary concerned;
- e. Determine the place of storage of the Notary Protocol which at the time of the handover of the Notary Protocol is 25 (twenty-five) years old or more;
- f. Receiving reports from the public regarding alleged violations of the Notary Code of Ethics or violations of the provisions of this Law; and
- g. Make and submit reports as referred to in letters a, b, c, d, e, f, and g to the Regional Supervisory Assembly."

The active role of the MPD so that the authority and responsibility of the Notary as the Official Making of Authentic Deeds can be carried out and accounted for in accordance with the applicable laws and regulations with the hope that the deed made by the Notary is of higher quality as a strong and valid evidence in proving which can ultimately increase public trust in the position of Notary. The theory of authority used as an analysis knife in this study is used to analyze the Authority of the Mataram City Regional Supervisory Council on Notary Examination Based on Permenkumham Number 15 of 2020, where the legal rules regarding the process of Notary examination by MPD are regulated in Law Number 2 of 2014 concerning the Notary Position in Article 70 and Article 71, then through implementing regulations, namely Permenkumham Number 15 of 2020 in articles 17 to 23, then Permenkumham Number 24 of 2020 in Article 23.

The work program of the Mataram City MPD is to carry out one of the duties and authorities of the Supervisory Council, namely the examination of the Notary protocol, for the purpose of routine inspections at least (once a year) or a certain time as needed, the Mataram City MPD has formed an Inspection Team consisting of three people from each element, assisted by one secretary. Due to the large number of Notaries in Mataram City, the supervision technique is divided into three groups consisting of 3 supervisory teams. The indicators of supervision carried out by the Regional Supervisory Council are, among others, determining the size of implementation, providing assessments, and making corrections. The results of the interviews that have been conducted by the author in the field as conveyed by Mr. I Made Agus Suarjaya, S.H., M.H. as the Chairman of the Mataram City Notary MPD That:

"In principle, the role of MPD is very central considering that the role of MPD is needed to supervise and coach notaries because Notaries in Mataram City as the center of NTB where the level of transactions and business in Mataram City is very high so that notaries become strategic officials in service of business processes and transactions in Mataram. So that with the high risk, it must be more supervised and coached, because if it is not supervised, it will be vulnerable to issuing negative authentic data."

The task of the Notary Regional Supervisory Council is to supervise Notaries as referred to in the Law and Human Rights Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004 concerning Procedures for the Appointment of Members, Appointment of Members, Organizational Structure, Work Procedures and Procedures for Examination of the Notary Supervisory Council and the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number M.39-PW.07.10 of 2004 concerning Guidelines for the Implementation of Duties Notary Supervisory Board. The term of office of the Member of the Regional Supervisory Council is 3 (three) years from the appointment as intended in Article 69 paragraph (4) of the UUJN.

MPD work procedures are regulated in Articles 36-39 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia (Permenkumham RI) Number 24 of 2020 concerning Amendments to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 40 of 2015 concerning the Organizational Structure and Work Procedures, Procedures for Appointment and Dismissal, and the Budget of the Notary Supervisory Council, including seven working days before the examination is carried out, A written notice is submitted to the Notary concerned no later than 7 (seven) working days before the examination is carried out, which includes the time, day and date of the examination as well as the composition of the Examination Team. At the time of the inspection, the Notary concerned must be in his office and prepare all the protocols to be examined, which consist of: a) Minuta deed; b) Deed list book or reportorium; c) A special book for registering a letter under the hand whose signature is notarized and a letter under the hand that is booked; d) A list of faces or klapper from the list of deeds and a list of letters under the hand that is ratified; e) A list of protests; f) Will register book; and g) Other register books that must be kept by the Notary based on the provisions of laws and regulations.

The Inspection Team must also check, among others: The condition of the Notary's office; Letter of appointment as a Notary and Minutes of Oath of Office; Notary leave permit certificate and Notary leave certificate; The state of the archive; The condition of the deed is kept; Monthly reports; Citation test of deeds; The number of employees, and; Office facilities. In addition, the Audit Team records in the register book and bundle of minutes of deeds included in the Notary protocol by mentioning the date of the examination, the number of deeds and the number of letters under the hand that are legalized and that are made since the date of the last examination. The above is as stipulated in Part V of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia (Permenkumham RI) Number 15 of 2020 concerning Amendments to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004 concerning Procedures for the Examination of the Supervisory Council of Notaries.

The Audit Team makes an Examination Minutes signed by the chairman and the Notary concerned, at least five times for the purposes of the MPD itself, MPW, MPP, INI Regional Management and the Notary concerned, as stipulated in Article 17 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia (Permenkumham RI) Number 15 of 2020 concerning Amendments to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number M.02.PR.08.10 of 2004 about the Procedure for the Examination of the Supervisory Council of Notaries.

The results of the examination by the Audit Team contained in the Audit Minutes are evaluated to assess the level of compliance of the Notary with the Law and the Notary Code of Ethics, and the results of the evaluation are taken into consideration in conducting guidance and supervision of Notaries. To achieve an ideal coaching and supervision practice, in principle, coaching and supervision are highly dependent on how the coaching and supervision are carried out. In other words, the implementation of supervision must be adjusted to the needs and goals to be achieved through these activities. Therefore, the steps taken by the Notary Supervisory Council in conducting guidance and supervision must be carefully thought out, and carefully so that they are right on target. Periodic examinations regulated in Permenkumham number 15 of 2020 are differentiated from regulations regulated in the law on the position of notaries.

The implementation of the authority of the Mataram City Notary Supervisory Council on Notary Examinations is carried out in accordance with Permenkumham Number 15 of 2020 and the results of the examination provide recommendations to the NTB Provincial MPW. Based on routine reports, the Regional Supervisory Council makes an Examination Minutes for all notaries that have been summarized to be reported to the Regional Supervisory Council. Furthermore, if based on an incidental report, the Regional Supervisory Council makes an Examination Minutes per notary who is suspected of violating the implementation of the notary position with the stages of having summoned the notary in question for information and has examined the facts in the field. Regarding the recommendations given, the Mataram City MPD will provide recommendations in accordance with the provisions of the articles that are suspected to have been violated by the notary concerned by including the related articles as considerations for the West Nusa Tenggara Province MPW.

Obstacles and Efforts Made by the Regional Supervisory Council in Conducting Notary Supervision in Mataram City

The Mataram Notary Regional Supervisory Council tries to carry out its duties in accordance with the applicable laws and regulations that we have discussed earlier. There were 1 (one) cases in 2021, 1 (one) case in 2022 and 2 (two) cases in 2023. As well as conducting notary protocol checks at least once a year. In carrying out this difficult task, the Mataram City Notary Regional Supervisory Council faces various obstacles, these obstacles arise considering that the members of the Assembly have different professional backgrounds. Difficulties arise when determining the date and day to carry out the examination, both the schedule of the notary protocol examination and the examination schedule of the report that enters the Mataram City Notary MPD.

Obstacles to the Authority of the Mataram City Notary Supervisory Council on Notary Examination Based on the Minister of Law and Human Rights Regulation Number 15 of 2020 in the process of examining notaries by the Regional Supervisory Council in Mataram City against violations of the implementation of the notary position in practice is carried out by direct and indirect examination by including the process of coaching, protection, and supervision. Direct examinations are carried out at least once a year by visiting the notary's office directly, while indirect examinations are conducted by checking the reports given by the notary to the Regional Supervisory Council on a regular basis every month. From here, the Regional Supervisory Council then examines the notary, and if irregularities are found or the notary is suspected of making mistakes in his report, then the notary concerned will be questioned and examined further.

So regarding the obstacles and problems faced by the Mataram City Notary Regional Supervisory Council, from the results of the researcher's interview with the Chairman I Made Agus Suarjaya, S.H., MH, as the Chairman of the Mataram City Notary MPD:

"Limited resources, such as budget, manpower and facilities, which can hinder the implementation of supervision"

The obstacles faced by the Supervisory Board can be classified based on the theory of Legal Effectiveness put forward by Soerjono Soekanto that the effectiveness or not of a law is determined by 5 (five) factors, namely: 1) The legal factors themselves (the Law); 2) Law enforcement factors, namely the parties who form the law and those who apply it; 3) Factors of facilities or facilities that support law enforcement; 4) Community factors, namely the environment in which the law applies or is applied; and 5) Cultural factors, namely as the result of works, creations and tastes that are based on human karsa in life associations.

The obstacles faced by the Mataram City MPD in carrying out Notary supervision in Mataram City based on interviews conducted are greatly influenced by 2 (two) main factors. The factors that affect it are as follows:

a. the legal factors (laws); According to the researcher, the presence of Law Number 30 of 2014 concerning the Notary Position as amended by Law Number 2 of 2014 is quite good, but it needs to be acknowledged that so far the Regional Supervisory Council of Notaries of Mataram City has carried out its duties and needs to be maximized again in the examination of the Notary protocol but is not subject to sanctions in any form. So from the results of the interviews, there are still MPD members who are not optimally participating in routine meetings and also notary protocol checks. And furthermore, in the examination as in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning Procedures for the Examination of the Supervisory Council of Notaries, it only gives the authority to the Mataram City Notary MPD to conduct an examination and arrive at a recommendation of sanctions to the NTB Notary MPW as a result of which the supervisory role has not been maximized.

b. Law Enforcement Factors; The busyness of the members of the Notary Supervisory Council with different professions makes it a bit difficult to match the time to gather all MPD members Where Notaries are less able to manage the time between the Notary's activities and the examination time. The examination team must consist of government elements, notaries and academics while MPD members from

government elements so that the substance is still carried out while the technical ones are adjusted to conditions so that the case settlement time can be carried out as regulated by law. In addition, there is a different understanding between the parties related to the notary examination in the city of Mataram.

In order to provide solutions to the obstacles found by the Notary Regional Supervisory Council, various efforts were made. The efforts made by the Notary Regional Supervisory Council in Overcoming Obstacles in the Implementation of Supervision of Notaries in Mataram City are based on the theory of Legal Effectiveness by Soerjono Soekanto as follows:

a. **Legal Factors (law)** It is necessary to add content material that regulates administrative sanctions in the form of verbal reprimands, written reprimands and dismissals for members of the Notary Regional Supervisory Council who do not carry out their obligations in conducting guidance and supervision of Notaries in Law Number 30 of 2004 concerning Notary Positions as amended by Law Number 2 of 2014. And in the examination as stated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning the Procedure for the Examination of the Supervision Council of Notaries, it should give more authority to the Mataram City Notary MPD not only to recommend sanctions but also to determine sanctions so that the role of supervision is stronger and more effective.

b. **Law Enforcement Factors** Need to Reschedule the examination activities of Notaries who cannot attend the examinations carried out by Members of the Mataram City Notary Regional Supervisory Council so that their role can be maximized and the NTB Notary MPW needs to improve the understanding of supervision and coaching of the Mataram City Notary MPD by conducting FGD, training and education, socialization, and others for MPD Members which aim to equalize perceptions in Notary examination.

The solutions implemented in facing the obstacles faced by the Mataram City Notary Regional Supervisory Council are in line with the theory of legal effectiveness, which is expected to provide benefits and bring effects to notaries who have not carried out their duties according to the mandate of the applicable laws and regulations so that the law can be enforced and the implementation of duties according to the rules that have been implemented by the notary supervisor brings the benefits of changing a bad culture to more good. Supervision of Notaries is very important for people's lives. In carrying out their duties, Notaries are required to improve their professionalism and quality of work, so as to provide guarantees of certainty and legal protection for clients and the wider community.

CONCLUSION

Based on the results of the discussion, several things can be concluded as follows; First, the authority of the regional supervisory council in notary supervision in Mataram City, the same as the regional supervisory council throughout Indonesia, it is divided into two, namely the guidance of the intention for preventive actions to prevent violations that will be committed by the notary, and supervision is a repressive action as a result of the non-heeding of preventive measures in the guidance. Second, the obstacles faced by the regional supervisory council in carrying out notary supervision in Mataram City are; The legal factor needs to be added to the content material that regulates administrative sanctions, both in the form of verbal reprimands, written reprimands and dismissals for members and the content of the authority to determine sanctions by the Notary MPD. Meanwhile, law enforcement factors need to reschedule the schedule during the Notary examination so that all the objectives can be present so that the examination is more optimal and effective in the Notary examination, and the role of the NTB Notary MPW to provide education and training, FGD and socialization of regulations so as to provide the same understanding in the Notary examination in Mataram City.

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