International Journal of Education, Vocational and Social Science
https://e-journal.citakonsultindo.or.id/index.php/IJEVSS
E-ISSN : 2963 4954
IJEVSS

The Implication Of The Central Honorary Council's Regulation In Limiting The Number Of Notarial Deeds

Nurul Inayah Eka Putri[1*], Marwati Riza[2], Kahar Lahae[3]

[1]Student of Master of Notary, Faculty of Law, Hasanuddin University of Makassar
[2]Professor of Faculty of Law, Hasanuddin University of Makassar
[3]Assoc. Professor of Faculty of Law, Hasanuddin University of Makassar

*e-mail: nurulinayahekap@gmail.com

Abstract

The purposes of this study are: 1. To analyze the effectiveness of the supervisory role of the Notary Supervisory Board based on Central Honorary Council regulation Number 1 of 2017 concerning the Limit of the Reasonable Number of Deeds Per Day (Per.DKP No.1/2017). In addition, the purpose of this study is also to analyze the legal implications for notarial deeds made exceeding the fairness limit as stipulated in Central Honorary Council Regulation Number 1 of 2017 (Per. DKP No.1/2017). Research method. The approach taken by researchers is to use empirical methods. This research was carried out in several cities/regencies in South Sulawesi, namely the Regional Supervisory Board and Regional Supervisory Board of South Sulawesi Province and several Notary Offices whose locations are still under the authority of the Regional Supervisory Council. Furthermore, the samples were taken using the Simple Random Sampling method. The types and sources of data needed in this study were divided into two types of data: primary data, secondary data, and tertiary data. Data collection techniques were library research and field research. Data analysis, namely primary data and secondary data in this study were analyzed qualitatively, namely describing and systematically compiling the data obtained from the interview results, to achieve clarity of the issues discussed. Research result : 1) Based on its position, the Central Ethics Council Regulation Number 1 of 2017 comes with the hope that it can be a complement to the Notary Office Law, even though the limit on the number of making deeds per day is not explicitly stated in it, Article 2 of the Central Honors

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Council Regulation Number 1 of 2017 indirectly still has a thread related to the enforcement of the Notary Office Law, and 2) With regard to the sanctions given to notaries whose deed exceeds the fairness limit, in fact on the ground the Regional Supervisory Council stated that in fact on the ground they had not received information either within the South Sulawesi region or outside South Sulawesi regarding the imposition of sanctions by the Supervisory Council for making more than 20 deed per day.

Keywords: ***The Implication, The Central Honorary Council's Regulation, Limiting in The Number of Notarial Deeds***

INTRODUCTION

The position of a notary as a functionary in society, an official where one can obtain reliable advice, an official who can make a document strong so that it can be used as evidence in legal proceedings. In Indonesia, the role of a notary is as a general official who is authorized to make authentic deeds to be used as evidence (Supriadi, 2006:29).

The authority to make authentic deeds is only carried out by a notary insofar as the making of certain authentic deeds is not reserved for other public officials, which means that the notary deed is directly related to the dignity of the parties who promise. The promises that have been stated in the deed are a reflection of the sincere will conveyed by the parties (Adjie, 2009:40).

Article 1 number 1 Law Number 2 of 2014 concerning the Position of Notary Public provides a definition of a Notary, namely: "Notary is a public official authorized to make authentic deeds and other authorities as referred to in this law.

According to R. Soegondo Notodisoerjo, a Notary is a public official openbare ambtenaren, because he has a close relationship with authority or has the main duties and obligations, namely making authentic deeds (Anshori, 2009: 14).

Notaries as public officials (openbare ambtenaren) have a central role in law enforcement in Indonesia. In terms of carrying out the functions of his position, a notary certainly has obligations that must be carried out. The position of notary is a position whose existence is desired in order to realize legal relations between legal subjects that are civil in nature.

Notary as a public official (openbare ambtenaren) who has a role in the service sector, namely as an official authorized by the State to provide services to the public in the civil field,

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

especially in making authentic deeds. The basis for the notary's authority is as stipulated in Article 15 of the Notary Office Law. Thus a notary in exercising his authority must act within the corridors determined by law.

As a public official (openbare ambtenaren) who is authorized by the state to provide services to the public in the civil field, especially in making authentic deeds. The basis for the notary's authority is as stipulated in Article 15 of the Notary Office Law. In carrying out its duties and functions, a notary is bound by a number of rules, ranging from statutory provisions to a code of ethics that requires a notary to act according to predetermined corridors. This shows that the consequences of an authentic deed made by a notary are no joke. In proving in court, the existence of an authentic deed can be a reference or determinant for the panel of judges in rendering a decision on a case.

One of the things that has been agreed upon at the Congress of the Indonesian Notary Association (INI) is regarding the reasonable limits of making a deed. This is stated in Article 4 number 16 of the Amendment to the Notary Code of Ethics which was implemented on 29-30 May 2015, which stipulates "Notaries and other people (as long as the person concerned is carrying out the position of Notary) are prohibited: "Making deeds that exceed the reasonable limit, the amount of which is determined by the Honor Council." Indonesian.

The notary as a public official (openbare ambtenaren) has an important role that is trusted by the government and the community to assist the government in serving the community in guaranteeing legal certainty, order and protection through authentic deeds made by or before him, considering that authentic deeds are the strongest evidence and have essential juridical value in every legal relationship when there is a dispute in people's lives.

The Notary Code of Ethics contains good and bad things and sanctions that can be imposed if someone commits a violation (Anshori, 2009: 53). Meanwhile, the Notary Office Law functions as a "legal rule" for Notaries in carrying out their duties and positions. This Law contains the authorities, obligations, prohibitions and provisions that must be obeyed by each Notary in carrying out their duties and positions.

In carrying out his profession, a Notary is also inseparable from the supervision carried out by the Notary Supervisory Board and the Notary Honorary Council. As mandated by the Notary Office Law, in particular Article 67 Paragraphs (1) and (2) which states that the Minister has the authority to supervise Notaries and in carrying out their supervision the Minister forms a

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Supervisory Board. Supervision is intended for compliance with the Code of Ethics and obedience to carry out the provisions stipulated by laws and regulations (Enny Mirfa, 2016: 61).

Minister of Law and Human Rights through the Notary Supervisory Council. The Notary Supervisory Council has the authority and obligation to carry out guidance and supervision in stages through the Regional Supervisory Council (MPD), Regional Supervisory Council (MPW), and Central Supervisory Council (MPP). Furthermore, Article 67 paragraph (3) of the Notary Office Law determines that the Supervisory Board consists of 9 (nine) people, consisting of elements (Adjie, 2015: 4):

1. Government of 3 (three) people
2. Notary organization of 3 (three) people
3. Experts/academics of 3 (three) people

Supervision of Notaries does not only apply in the event that a Notary neglects the nobility and dignity or duties of his position or violates general regulations or commits other mistakes in carrying out his position as a Notary. Therefore it is very important for a Notary to be able to better understand the extent to which the act can be said to be a violation of the code of ethics, what are the sanctions and how effective is the organization or association of the Indonesian Notary Association (hereinafter referred to as "INI") in providing guidance to Notaries so that things do not harm the Notary and the community he serves (Yunita Elysabeth Nainggolan, 2012: 7-8).

Law of Notary Office Number 2 of 2014 concerning Amendment to Law Number 30 of 2004 concerning Position of Notary, does not regulate the limitation of deed by a Notary. However, in the provisions of Article 12 Paragraph (1) of the Association's Articles of Association it has been stipulated that the Honorary Council has the authority to represent the association in terms of fostering, supervising and imposing sanctions in enforcing the Notary's Code of Ethics, so that in this case the Honorary Council has the duty and authority to examine and make decisions on alleged violations of the provisions of the Notary's Code of Ethics and to make regulations in order to enforce the Notary's Code of Ethics together with the Central Executive. The issuance of the Honorary Council Regulation of the Indonesian Notary Association (INI) Number 1 of 2017 concerning the Limit of the Reasonable Number of Deeds Per Day, hereinafter referred to as Per.DKP No.1/2017, is a form of authority of the Honorary Council of the Indonesian Notary Association Center to enforce the Notary Code of Ethics.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

In practice, the making of notarial deeds is generally interrelated with other deeds. This is due to the existence of a Notary who has partners with banks and leasing companies who will accept the making of deeds related to banking and financing. Deeds related to motorcycle and car financing are in the form of fiduciary deeds while banking deeds are related to the binding of the desired guarantee in accordance with the interests desired by the bank. As an example of a deed in terms of housing loan (KPR) financing, generally the bank will ask to make several deeds related to mortgages such as the deed of binding sale and purchase agreement, deed of home ownership credit agreement, deed of guarantee and power of attorney agreement, power of attorney, deed of power of attorney to impose mortgage rights. The type of deed to be made generally follows a request from the bank, then the Notary concerned will examine and examine matters that are considered important, especially the identity of the parties and other documentary evidence such as certificates and so on.

At the Expanded Central Management Plenary Meeting (RP3YD) which was held at the end of January 2018 ago in Solo, one of the issues raised at that time was the number of fairness limits for making a deed by a Notary. At that time, Arry Supratno, who served as Chairman of the Honorary Council of the Indonesian Notary Association (DKP INI), conveyed regarding the fact that it was found that there were notaries making up to approximately 2,000 (two thousand) deeds per month, assuming that within 5 (five) working days per week the average number of deeds produced per day was 100 deeds.

If you examine logically, how to make a deed that has been regulated in Law Number 30 of 2004 jo. Law Number 2 of 2014 concerning the Position of Notary can be fulfilled if in one day a notary can issue 100 deeds. It should be noted that the Notary Office Law has regulated the procedure for making a deed which involves a notary, the appearer who made the deed, and two witnesses who were present when the deed was read by the notary. Not only that, the procedure also involves the reading of parts of the deed and the signing process.

The existence of making a deed by a notary that exceeds the reasonable limit as determined by the Honorary Council, as stated in Article 4 point 16 concerning the Code of Ethics for the Position of a Notary Public raises anxiety among Notaries, especially Notaries who usually serve the making of fiduciary guarantee deeds and deeds related to Home Ownership Credit which usually exceed 20 deeds or even more than that.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Based on the description above, the writer wants to compile a thesis research with the title "Implications of Central Honor Council Regulations in Restricting the Number of Notary Deeds".

RESEARCH METHODS

A. Type of Research

Considering that this research is focused on the issue of the effectiveness of supervising the application of the code of ethics, especially on the reasonable limit of the number of fair deeds per day, the approach taken by the researcher is to use the empirical method. This empirical legal research is legal research conducted by examining primary data, namely data obtained directly from the public. To answer the two formulations of the problem to be discussed, namely first, the effectiveness of the supervision of the Regional Supervisory Board and the Regional Supervisory Council towards notaries after the issuance of the Central Ethics Council Regulation Number 1 of 2017 concerning the Limit of the Reasonable Number of Deeds Making Per Day (Per.DKP No.1/2017). Second,

B. Research Locations

To obtain data and information related to the issues discussed, this research was carried out in several cities/regencies in South Sulawesi, namely the Regional Supervisory Board and the Regional Supervisory Council for the Province of South Sulawesi and several Notary Offices whose locations are still under the authority of the Regional Supervisory Council.

Considerations regarding the choice of location for this research, namely by conducting research at that location the author can obtain complete, accurate and adequate data so that objective research results can be obtained and related to the object of research in accordance with the purpose of writing a thesis, namely to examine the effectiveness of the supervisory role of the Regional Supervisory Council and the Regional Supervisory Council towards notaries based on the Central Honor Council regulation Number 1 of 2017 concerning the Limit of the Reasonable Number of Deeds Per Day, as well as to analyze the legal implications for notarial deeds made in excess of the legal limit rules as stipulated in Central Honor Council Regulation Number 1 of 2017 (Per.DKP No.1/2017).

C. Population and Sample

The population in this study are all parties related to the formulation of this problem, namely the Regional Supervisory Board and Regional Notary Supervisory Council of South

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Sulawesi Province and general officials of Notaries whose working areas are still under the authority of the Regional Supervisory Council.

Furthermore, samples were taken using the Simple Random Sampling method, namely random sample selection or probability sampling, which is a sampling technique that uses the rule of chance in the process of determining the sample. In determining the sample, the researcher will choose several research subjects, namely notaries in several cities/regencies of South Sulawesi who can be considered representative in obtaining the information needed in this study. This is based on the fact that the object of this research is focused on a rule whose validity is comprehensive for all notaries. The respondents in this study were the Regional Supervisory Council, Regional Supervisory Council and several Notaries in the region.

D. Types and Sources of Data

The types and sources of data needed in this study are divided into two types of data:

1. Primary data, namely data obtained directly from the research field through interviews with the Regional Supervisory Council (MPD), Notary Regional Supervisory Council (MPW), and Notaries whose working area is still under the authority of the Regional Supervisory Council (MPW).
2. Secondary data, namely data obtained through literature studies, the internet, laws and regulations and documents that are relevant to this research.
3. Tertiary data, namely legal materials that provide an explanation of primary legal materials and secondary legal materials. The tertiary legal materials used are the Legal Dictionary and the Big Indonesian Dictionary.

E. Data Collection Techniques

In the context of conducting research, researchers collect data as follows:

1. Library Research

   The research will be carried out by collecting data by reading and examining some literature, books, laws and regulations related to the problem under study to obtain secondary data to make it easier to analyze existing problems.

2. Field Research

   In field research, research was conducted through interviews (interviews), namely by conducting question and answer which was carried out directly to the informants, namely interviews with the Chairperson of the Regional Notary Supervisory Board, the Regional Ethics Council, and parties related to the subject matter in this study.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

The researchers used a closed questionnaire in this study, namely in the form of a list of questions to find out the understanding of Notary respondents in the city of Makassar regarding the Notary's code of ethics.

F. Data Analysis

Data analysis, namely primary data and secondary data in this study were analyzed qualitatively, namely describing and systematically compiling the data obtained from the interview results, to achieve clarity of the issues discussed. After the data analysis is complete, the results are presented descriptively, namely by describing in detail the legal implications of making notarial deeds whose number exceeds the reasonable limit specified in the notary's code of ethics which then provides a clear and directed understanding of the research results. From these results, a conclusion is then drawn which is the answer to the problems studied in this study.

RESULTS

1. Supervision Effectiveness of The Notary Supervisory Assembly Post The Issuance of Regulation of The Central Honor Council Number 1 of 2017

Notaries in exercising their authority are supervised externally by the Notary Supervisory Board and internally supervised by the Notary Honorary Council (Adjie, 2011: 23). External supervision of notaries is carried out by the Government, in this case the Minister of Law and Human Rights delegates his authority to the Notary Supervisory Council to carry out oversight of the performance and position of a notary.

There is a difference in authority between the Notary Supervisory Council and the Notary Honorary Council. At the Notary Supervisory Council, based on Article 67 paragraph (2) of Law Number 2 of 2014 concerning the Position of a Notary, which states that the Notary Supervisory Council supervises the Notary Public including the behavior of the Notary and the implementation position by a Notary, while the Notary Honorary Council only carries out guidance and supervision to the extent of violating the code of ethics by a Notary.

Article 1 point 6 of Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 of 2021 concerning Organizational Structure and Work Procedures, Procedures for Appointment and Dismissal, as well as the Budget of the Notary Supervisory Council states that what is meant by supervision is activities that are preventive and curative in nature including coaching activities carried out by the Supervisory Board for Notaries.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Thus there are 3 (three) tasks carried out by the Supervisory Board, namely:

a. Preventive surveillance

b. Curative supervision

c. coaching

Based on this, the Notary Supervisory Council not only has the authority to carry out guidance and supervision of Notaries who violate the provisions of the Law. The Notaries' Supervisory Council also carries out guidance and supervision of ethical violations as carried out by the Notary Honorary Council. However, what is meant by ethical violations here are ethics that are specifically related to the Notary Office Law and the actions or behavior of a Notary's life which can injure the nobility of the position of a Notary.

The Notary Supervisory Council is divided into 3 levels namely Regional Supervisory Council (MPD), Regional Supervisory Council (MPW) and Central Supervisory Council (MPP). In carrying out the guidance and supervision functions, the Notary Supervisory Board has a legal basis for authority as regulated in the Regulation of the Minister of Law and Human Rights Number 15 of 2020 concerning Procedures for examining Notaries by the Supervisory Board.

In carrying out its authority, the Regional Supervisory Council (MPD) is administrative in nature, meaning that the Regional Supervisory Council (MPD) is only authorized to receive reports or complaints from the public regarding alleged violations of the Notary's code of ethics or violations of provisions in the law. In the event of an alleged violation, the Supervisory Council shall establish an Examining Council which has the authority to examine and accept reports received from the public or fellow Notaries. Reports that have been recorded in the regional Supervisory Council (MPD) register book will then be delegated to the Regional Supervisory Council (MPW). Furthermore, reports that have fulfilled preliminary evidence and are considered sufficient and have obtained approval from the Regional Supervisory Council meeting, a hearing will be held to examine allegations of violations of the Notary's code of ethics or violations of the implementation of the Notary's office. The inspection session that has been carried out will then be made into minutes of inspection and will be submitted to the local Regional Supervisory Council, with copies to the Central Supervisory Council (MPP), Notary Organization, Notary concerned and the reporting party. In carrying out examinations of these public reports, the results of investigations into alleged violations of the code of ethics or violations of the provisions of the Law shall be submitted within 30 (thirty) days to the Regional Supervisory Council (MPW), by providing a copy to the Central Supervisory Council (MPP), Notary Organization, the Notary

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

concerned and the party reporting the alleged violation.

Based on interviews conducted by the author with members of the Regional Supervisory Board of Maros-Pangkep Regency, Mr. Abdurrifai (July 18, 2023), information was obtained regarding the history of the birth of the Central Honorary Council Regulation Number 1 of 2017 due to the many phenomena and incidents in the practice of making deeds by notaries, in this case the type of Fiduciary deed. The birth of DKP Regulation Number 1 of 2017 is intended not only to protect the interests of the parties in the deed but also to the notary. The existence of regulations limiting the reasonable limit for making deed per day is not absolute, in other words, if there is a deed that exceeds the number of 20 but the deed is related to the making of the main deed, then this can be permitted.

Based on the author's interview with a Notary in Soppeng Regency (A.Afdal, July 10, 2023), the enactment of DKP Regulation Number 1 of 2017 has brought fresh air to notaries who have just started their careers. With the issuance of DKP Regulation Number 1 of 2017, this can provide wider opportunities for notaries who are just starting their careers. It is hoped that the enactment of this rule can reduce the monopoly impression of deed making which often occurs in the field and is carried out by senior notaries who have long carried out their duties in an area. In connection with the supervision carried out by the Notary Supervisory Council, every year the Regional Supervisory Council conducts periodic visits, inspections, coordination as well as conducting outreach to notaries in Soppeng Regency. It's just that until now there has never been a notary who was declared to have committed a violation let alone received a sanction. If the Notary Organization really wants to enforce this provision, it will require the cohesiveness of the Notary Association members to implement it, especially if they want to suppress the impression of monopoly that is currently happening.

In carrying out his position, especially in making deeds, he must comply with the provisions contained in the Notary Office Law, namely starting from requests for making deeds, reading deeds, explaining the contents of the deeds to appearers, and complying with other laws and regulations, the Notary Code of Ethics, propriety, appropriateness and procedures for making deeds, as well as adding to the Notary's professional burden, it is stipulated that the reasonable limit for making deeds per day is 20 (twenty) deeds. However, in Article 2 Paragraph (2) Per DKP INI Number 1 of 2017, it states:

"If a Notary will make more than 20 (twenty) deeds per day in a series of legal actions that require related deeds, and/or other deeds, as long as they can be accounted for, they are carried

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

out in accordance with the Law on Notary Office, procedures for making notarial deeds, Notary Code of Ethics (KEN), decency and appropriateness and other laws and regulations."

These provisions make it clear that a Notary can make more than 20 (twenty) deeds per day, if: a. The deeds made are a series of legal actions that require related deeds, and b. Other deeds, as long as they can be accounted for and carried out in accordance with: 1. Notary Office Law, 2. Procedure for making a notarial deed,3. Notary Code of Ethics (KEN),4. Appropriateness and appropriateness,5. Other laws and regulations.

The Ministry of Law and Human Rights through the Regional Supervisory Board (MPD) has 2 supervisory control tools for Notaries, the first is when carrying out routine inspections and the second is when receiving monthly reports from a notary. According to Abdurrifai, the Ministry of Law and Human Rights indirectly still has some authority over the supervision of 20 certificates per day. This is because in the framework of its relation to the enforcement of the Notary Office Law. The order of the law of office is that the Notary is obliged to read the deed before the parties. Logically, if a notary makes 30 to 40 deed per day, then automatically the deed will not be able to be read in front of the parties, unless the deed is read alone in front of a notary and then followed by signing the deed. However, under these conditions, not all parties before the notary are able to read the deed they will sign themselves.

According to the results of the author's interview with the Secretary of the Makassar City Regional Supervisory Council (A.Fachruddin, July 14, 2023), information was obtained that the regional supervisory board accepts complaints from the public or fellow notaries regarding violations of the notary's code of ethics relating to violations in the Notary Office Law, whether it can be fraud, embezzlement, default and so on related to the law. The supervision carried out is tiered in nature. Prior to conducting an examination session, the Regional Supervisory Council first held a case before the examination session, during which the complainant and the reported party met in this process. The Supervisory Board itself in this case facilitated mediation between the complainant and the reported party. If at this stage no midpoint is found, it will be upgraded to the Regional Supervisory Council.

In connection with violations of the number of reasonable limits for making notarial deeds, since the last 3 years this Council, the Makassar City Regional Supervisory Council has never received a report or complaint regarding this type of violation. This is because the provisions limiting the number of deed drafting are not the domain of the Regional Supervisory Council which is under the coordination of the Ministry of Law and Human Rights, although in

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

this case the Supervisory Board has an annual inspection instrument that can see the number of deed made by a notary.

Regarding efficiency and effectiveness in implementing Central Honor Council Regulation Number 1 of 2017 (Per.DKP No.1/2017). Several things that the author found during an interview with the Regional Supervisory Council (MPD) of Maros-Pangkep Regency (Abdurrifai, 18 July 2023) namely the need for special attention from the MPD, it's just that the MPW and MPD's oversight has missed the issue of supervising the reasonable limit of the amount of making the deed because the regulation is a legal product of the Central Honorary Council which is the organizational structure of the Indonesian Notary Association Association (INI), and is not a legal product or authority from the Ministry of Law and Human Rights.

The Notary Oversight Council, both MPD and MPW, is a structure appointed by the Ministry of Law and Human Rights and is responsible for the authority granted by the Minister of Law and Human Rights. If the INI association and the Central Ethics Council want to enforce the regulations limiting the number of deed, then it would be best if they collaborated with the Ministry of Law and Human Rights through the Regional Supervisory Board which has the authority to routinely examine notaries.

According to the Regional Supervisory Board of Maros-Pangkep Regency (Abdurrifai, 18 July 2023), there were several weaknesses in the issuance of the Central Honorary Board Regulations, namely that the Central Honorary Council (DKP) seemed to be limited to issuing its regulatory products, whereas in carrying out annual protocol inspections and inspection visits to data on the number of deeds made by notaries it is not the DKP, DKW and DKD duties that are under it, but is the duty and authority of the Supervisory Council in this case the MPD. Thus indirectly the MPD has the authority to find out whether a notary in carrying out his duties and position makes more than 20 deed per day.

In the case of receiving a report on an alleged violation of the reasonable limit of the number of deed per day. The Maros-Pangkep Regency MPD stated that they had never received any case reports related to these violations, either reports from the public or notaries, although during the annual protocol inspection the Maros-Pangkep Regency MPD sometimes found that the number of fiduciary deed production exceeded the limit of 20 deed per day. Furthermore, the MPD of Maros-Pangkep Regency said that in relation to the fairness limit for making the deed, it should be clearer whether the deed issued is counted from the making of the deed made by the same appearer or different appearers. In reality, in the field, it is very possible that there will

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

be an appearer who wants to arrange several deeds, such as vehicle leasing and other deeds. Regarding the type of sanction given, it is also unclear and it is only stated that it refers to the Notary Office Law.

Based on the descriptions above, the author is of the view that the birth and enactment of the Central Honorary Council Regulation Number 1 of 2017 in the hope of being able to create a Notary Public that prioritizes the principles of prudence, professionalism and dignity, but all of that ultimately seems to just complement the existence of the Law on Notary Positions in which there is no regulation regarding the limit on the number of making 20 deeds per day. The reasonable limit for making a deed is actually unlimited as long as the process of making the deed can still be accounted for by the notary who made it as stated in Article 2 Paragraph (2) Per.DKP Number 1 of 2017. Per.DKP Number 1 of 2017 which is a legal product of the Central Honorary Council which is the organizational structure of the Association of Indonesian Notary Associations (INI), does not yet have an inspection instrument like that of the Notary Supervisory Board under the auspices of the Ministry of Law and Human Rights.Thus the above has made the implementation of the Central Honorary Council Regulation Number 1 of 2017 ineffective in terms of its implementation and enforcement.

It can be seen from the opinion of Achmad Ali (2009: 375) that when we want to know the extent of the effectiveness of the law, we must first be able to measure "the extent to which the rule of law is obeyed or not obeyed". Furthermore Achmad Ali (2009: 375) argues that in general the factors that influence the effectiveness of legislation are professional and optimal implementation of the roles, powers and functions of law enforcers, both in explaining the tasks assigned to them and in enforcing these laws.

According to Soerjono Soekanto (1988:80) effectiveness is the extent to which a group can achieve its goals. Law can be said to be effective if there is a positive legal impact, at that time the law reaches its target in guiding or changing human behavior so that it becomes legal behavior.

2. Legal Implications of Notarial Deeds Made Exceeding, The Amount of Reasonable Limits Stipulated in the Regulations Central Honor Council Number 1 of 2017

Law Number 2 of 2014 concerning the Position of Notary (UUJN) is a guideline for Notary officials in carrying out their duties, besides that the notary profession also has rules in the form

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

of a code of ethics which are moral principles determined in the Congress of the Indonesian Notary Association (INI) which must be obeyed by everyone who carries out their duties as a Notary, including Temporary Notary Officials, as well as Substitute Notaries when carrying out their positions.

In order to reduce violations of the code of ethics and fill the gaps in Law Number 2 of 2014 concerning the Position of Notary Public (UUJN), the Central Honorary Council of the Indonesian Notary Association (DKP INI) at the Congress of the Indonesian Notary Association (INI) then issued a regulation regarding the reasonable limit for making deed per day, namely 20 (twenty) deed. In Article 4 Number 16 in the changes to the Notary Code of Ethics (KEN) of 2015 it stipulates that:

"Notaries and other people (as long as the person concerned is carrying out the position of Notary) are prohibited from: making deeds that exceed the reasonable limit, the number of which is determined by the Honorary Council".

The regulation makes it clear that Per.DKP Number 1 of 2017 is one of the norms that is implicitly related to the Notary Code of Ethics. The purpose of the issuance of PerDKP Number 1 of 2017 is so that in carrying out their professional duties, Notaries still adhere to Law Number 2 of 2014 concerning Notary Positions, Notary Code of Ethics, propriety and appropriateness and procedures s making of notarial deed, as well as other laws and regulations.

The obligation to comply with the Code of Ethics is also based on the oath of office that a Notary has taken before carrying out his/her duties. The oath of office is contained in the provisions of Article 4 of the Notary Office Law. From this construction it can be seen that the Central Ethics Council Regulation Number 1 of 2017 concerning the Reasonable Limit of the Number of Deeds Made per Day, implicitly still has a connection with the Code of Ethics of the Indonesian Notary Association, although in this case it has not been explicitly stated in the Notary Office Law.

One of the most important elements in making an authentic deed is that the deed must be read and signed by the parties, 2 (two) witnesses and a Notary as stipulated in 16 paragraphs (1) letter m Law Number 2 of 2014 Concerning the Position of Notary.

This is in line with what was stated by Members of the Regional Supervisory Council of Maros-Pangkep Regency (Abdurrifai, 18 July 2023) which stated that the Notary Office Law (UUJN) and the Notary Code of Ethics have explained the duties and authorities of a notary is to read the deed to each appearer, even if it is not read aloud, then the deed can be read alone

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

before a notary. With the deed made above the number of 20 deeds per day, when compared to the normal duration of reading 1 deed which can take 25 to 30 minutes and compared to the number of notary working hours per day, it is almost certain that it is impossible for the number of deed above 20 to be able to be read by the notary in the presence of the parties.

Problems will arise if in practice the Notary makes more than 20 (twenty) authentic deeds per day. This is because every day a Notary makes deeds such as a fiduciary guarantee deed and other deeds, thus resulting in a violation of Article 2 paragraph (1) of PerDKP Number 1 of 2017. The notary who made the deed exceeds the reasonable limit as stipulated in PerDKP Number 1 of 2017, of course it will have legal implications. An authentic deed made by a Notary whose amount exceeds the fairness limit of course will have implications not only for the Deeds made by the Notary but also for the Notary Officer.

CONCLUSION

1. Based on its position, the Central Ethics Council Regulation Number 1 of 2017 comes with the hope that it can be a complement to the Notary Office Law, even though the limit on the number of making deeds per day is not explicitly stated in it, Article 2 of the Central Honors Council Regulation Number 1 of 2017 indirectly still has a thread related to the enforcement of the Notary Office Law. This is because the order of the Act of office is that the Notary is obliged to read the deed in front of the parties

   There is a difference in authority between the Notary Supervisory Council and the Notary Honorary Council. At the Notary Supervisory Council, based on Article 67 paragraph (2) of Law Number 2 of 2014 concerning the Position of a Notary which states that the Notary Supervisory Council supervises the Notary Public including behavior and implementation of the Notary position by a Notary, while the Notary Honorary Council only carries out guidance and supervision to the extent of violating the code of ethics by a Notary.

   Thus the supervision of the Supervisory Board missed the issue of supervising the reasonable limit for the amount of the deed made because the regulation is a product of the Central Honorary Council which is the organizational structure of the Indonesian Notary Association Association (INI), and is not a legal product or authority from the Ministry of Law and Human Rights. On the other hand, the Oversight Council is a structure appointed by the Ministry of Law and Human Rights and is responsible for the authority given by the

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Minister of Law and Human Rights.

Cooperation has not yet been created between the Association of Indonesian Notary Associations (INI) through the Central Ethics Council and the Ministry of Law and Human Rights through the Regional Supervisory Board which incidentally has the authority to routinely examine notaries. These things make DKP Regulation Number 1 of 2017 ineffective in terms of implementation and supervision.

2. With regard to the sanctions given to notaries whose deed exceeds the fairness limit, in fact on the ground the Regional Supervisory Council stated that in fact on the ground they had not received information either within the South Sulawesi region or outside South Sulawesi regarding the imposition of sanctions by the Supervisory Council for making more than 20 deed per day. In the event that the notary deed exceeds the reasonable amount, the deed remains valid and valid as long as the notary deed is drawn up in accordance with the form and procedure stipulated in Law Number 2 of 2014 concerning the Office of a Notary and has fulfilled the legal requirements of an agreement as stipulated in Article 1320 of the Civil Code. In this case, even though the number of deeds drawn up by the Notary official who made the deed exceeds the fairness limit specified in Article 2 paragraph (1) DKP Regulation Number 1 of 2017, the validity of the deed automatically places the rights and obligations of the parties in force. This is in accordance with the Pacta Sunt Servanda principle contained in the provisions of Article 1338 paragraph (1) and paragraph (2) of the Civil Code which states that all agreements made legally apply as laws for those who make them. Thus, it does not cancel the validity of the deed, even though the number of deed made by the Notary official who made the deed exceeds the fairness limit specified in Article 2 paragraph (1) DKP Regulation Number 1 of 2017.

REFERRENCE

Achmad Ali, Revealing Legal Theory and Judicial Theory Vol.1, Kencana, Jakarta, 2009.

Achmad Ali, Exploring Empirical Studies of Law, Yarsif Watampone, Jakarta, 1998.

Abdul Ghofur Anshori, Indonesian Notary Institute, Legal and Ethical Perspective, UII Press, Yogyakarta, 2009.

Ministry of National Education, Big Indonesian Dictionary, Balai Pustaka, Jakarta, 2003.

Dian Halim Koentjoro, State Administrative Law, Ghalia Indonesia, Bogor, 2004.

Gouzali Syadan, Management and Leadership Questions and Answers, Djbatan, Jakarta, 2003.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Habib Adjie, Notary Supervisory Board as State Administration Officer, Rafika Aditama, Bandung, 2015.

_____, Overview of the World of Notaries & PPAT Indonesia (Collection of Writing), Mandar Maju, Bandung, 2009.

_____, Indonesian Notary Law (Thematic Interpretation of Law Number 30 of 2004 concerning the Position of Notary), Print 2, PT. Rafika Aditama, Bandung, 2009.

_____, Indonesian Notary Law, Rafika Aditama, Bandung, 2008.

_____, Notary Supervisory Board as State Administrative Officer, Refika Aditama, Bandung, 2011.

I Gede A B, Fundamentals of Ethics and Morality (Introduction to the Study of Legal Profession Ethics), Citra Aditya Bakti, Bandung, 2005.

Irwansyah, Legal Research Selected Article Writing Methods & Practices, Mirra Buana Media, Yogyakarta, 2020.

Ira Koesoemawati and Yunirman Rijan, To Notary, Cet. I, Achieve Asa Success, Depok, 2009.

Luthfan Hadi Darus, Notary Law and Notary Responsibilities, UII Press, Yogyakarta, 2017.

Makmur, Monitoring Policy Effectiveness, Refika Aditama, Bandung, 2011.

Nudirman Munir, Introduction to Indonesian Cyber Law, Third Edition, Raja Grafindo Persada, Jakarta, 2017.

Central Board of the Indonesian Notary Association, Identity of Indonesian Notaries Past, Present, and In the Future, Gramedia Pustaka Utama, Jakarta, 2008.

Putri AR, Legal Protection Against Notaries; Indicators of the Duties of a Notary's Position Which Implicate a Criminal Act, Sofmedia, Medan, 2011.

Romli Atmasasmita, Legal Reform, Human Rights & Law Enforcement, Mandar Maju, Bandung, 2001.

Salim HS. et. al. Contract Design and Memorandum of Understanding, Sinar Graphic, Jakarta, 2011.

Soerjono Soekanto, Legal Effectiveness and Application of Sanctions, CV. Ramadja Karya, Bandung, 1988.

_____, Factors Influencing Law Enforcement, PT. Raja Grafindo Persada, Jakarta, 2008.

_____, Law Enforcement, Cipta Bina, Bandung, 1983.

Sondang P Siagian, Development Administration: Concepts, Dimensions and Strategies, Bumi

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Aksara, Jakarta, 2003.

_____, Administrative Philosophy, First Printing Revised Edition, Bumi Aksara, Jakarta, 2003.

Subekti, Law of Evidence, Jakarta: PT. Pradnya Paramitha, 2005.

Sudikno Mertokusumo, Indonesian Civil Procedure Code, Yogyakarta: Liberty, (hereinafter written Sudikno Mertokusumo II), 2006.

Supriadi, Ethics and Responsibilities of the Legal Profession in Indonesia. Sinar Graphics, Jakarta, 2006.

_____, Legal Profession in Indonesia, Sinar Graphic, Jakarta, 2006.

Victor M. Situmorang and Cormentyna Sitanggang, Gross Deed in Evidence and Execution, Jakarta: Rinika Cipta, 1993.

Wirjono Prodjodikoro, Principles of Agreement Law, Bandung: Bandung Wells, 1989.

Enny Mirfa, "Comparison of the Law of Notary Office in Indonesia and in the Netherlands", Journal of Scientific Research Sain, Vol. 2 No. June 2, 2016.

Yogi Priyambodo and Gunarto, "A Review of Violations of the Code of Ethics for Notary Office in Purbalingga Regency", Journal of Deeds, Vol. 4 No. Sept. 3, 2017.

Indra Kurniawan, "Resolving Malpractice Disputes Carried Out by Notaries", Thesis, Jenderal Sudirman University, 2019.

Rina Bahar, "Implementation of Monitoring the Implementation of Permits to Establish Residential Buildings in the City of Depok", Thesis, University of Indonesia, 2017.

Salim HS and Erlies Septiana Nurbani, Application of Legal Theory in Dissertation and Thesis Research, Raja Grafindo Persada, Jakarta, 2014.

Yunita Elysabeth Nainggolan, "The Role of the Indonesian Notary Association (INI) as a Single Organization for the Notary Professional Organization", Thesis, University of Indonesia, 2012.

Legislation:

The 1945 Constitution of the Republic of Indonesia.

Code of Civil law

Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary.

Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning the Honorary Council of Notaries.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License

Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 16 of 2021 concerning Organizational Structure and Work Procedures, Procedures for Appointment and Dismissal, as well as the Budget of the Notary Supervisory Council

Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 15 of 2020 concerning Procedures for Inspecting Notaries by the Supervisory Board

Changes to the Notary Code of Ethics at the Extraordinary Congress of the Indonesian Notary Association Banten, 29-30 May 2015.

Decision of the Extraordinary Congress of the Indonesian Notary Association, Banten, May 2015.

The meaning of the word deed - Big Indonesian Dictionary (KBBI) Online https://kbbi.web.id/akta (Accessed on 10 July 2023 at 10:30)

Deed - Definition, Types, and Examples | Tokopedia Kamus https://kamus.tokopedia.com/a/akta/ (Accessed on 10 July 2023 at 09:55)

https://www.dosendikduc.co.id/Effectivity-Ada/, accessed on 18 July 2023.

http://tesisdisertasi.blogspot.com/2010/10/teori-effectivity.html. accessed on 18 July 2023.

Copyright at authors some right reserved this work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International License