

Ethics Under Scrutiny: How Regional Notary Supervisory Assemblies Curb Professional Misconduct?

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Article History:

Submitted:

01-08-2024

Received:

02-11-2024

Accepted:

06-12-2024

Keywords:

code of ethics;
notaries; notary
supervisory council

Abstract

In Indonesia, the role of the Notary Supervisory Board has a very important function in carrying out the Notary profession in carrying out its authority when violations occur or when Notaries experience problems that must be proven. The research aims to analyse the role of the Regional Notary Supervisory Council in carrying out supervision in preventing violations of the Code of Ethics by Notaries in Denpasar City and to analyse the sanctions given to Notaries who violate the Code of Ethics in Denpasar City. This research is empirical research conducted in Denpasar City because the number of notaries in this city is the highest. Data was obtained through interviews, documentation and literature study, which was then analysed descriptively qualitatively. The research results show that the Regional Supervisory Council has an important role in supervising notaries, namely checking notary protocols periodically every quarter and year, providing new notaries, as well as coordinating with the Regional Supervisory Council, and also responding to public reports with detailed verification and inspection. The Regional Supervisory Council proactively provides guidance to notaries through various programs, such as outreach regarding developments in laws and regulations, as well as monitoring the implementation of administrative obligations by notaries. The role of the Regional Supervisory Council is not only reactive in taking action against violations but also proactive in preventing violations through continuous guidance.

1. Introduction

At this time in Indonesia, legal certainty has become a very basic need for every legal subject. The digital system can make it easier for sellers and buyers throughout the world to carry out buying and selling transactions from electronic devices based on communication.¹ The acceleration in changes in transaction and business procedures requires guarantees that every action taken has a clear and guaranteed legal basis. Specifically, in the business context, legal certainty is a key factor that drives the wheels of a country's economy.²

Notaries are public officials who have the authority to execute authentic deeds and have other authorities as regulated in the regulations. There are many aspects of legal practice related to notaries related to authentic deeds and their use in the verification process.³ As a notary, he is a public official appointed by the state who has a big responsibility in providing quality and trustworthy legal services to the community. Notaries have the task of making authentic deeds which are legal evidence in various legal transactions, such as buying and

¹ Utama, I. W. K. J., & Mahasanti, A. P. (2021). *Digital Authenticity of Trade Agreements in the Era of Globalization*. 226–229. <https://doi.org/10.2991/assehr.k.211203.050>

² Shabrina, D., Fendri, A., & Adegustara, F. (2019). The Role of the Notary Regional Supervisory Board in Preventing Legal Violations Committed by Notaries in Padang City. *International Journal of Multicultural and Multireligious Understanding*, 6(1), 292. <https://doi.org/10.18415/ijmmu.v6i1.571>

³ Kie, T. T. (2007). *Studi Notariat dan Serba-Serbi Praktek Notaris*. Jakarta: Ichtar Baru Van Hoeve.

selling, gifts, inheritance, and so on.⁴ Therefore, it is necessary to have a body that supervises Notaries. This supervision is carried out on Notaries, namely to fulfill requirements and carry out their duties in accordance with applicable statutory provisions for the security of the interests of the general public.⁵

Notary Supervision has the main task of ensuring that all rights, authorities and obligations given to Notaries in carrying out their duties as provided by the relevant basic regulations are always carried out on predetermined channels, not only legal channels but also professional moral and ethical channels in order to guarantee protection. and legal certainty for the community.⁶ Notaries must always carry out their duties and positions with trust, honesty, thoroughness, independence and impartiality. Notaries in exercising their authority must not only consider personal gain, Notaries may only provide information or opinions that can be proven to be true, and Notaries must be sincere towards clients and use all their scientific sources. The notary is also obliged to keep everything he knows about the client's problem confidential because of the trust that has been placed in him.⁷ That the Supervisory Council is a body that has the authority and obligation to carry out guidance and supervision of notaries. The Supervisory Council formed by the Minister of Law and Human Rights consists of government elements, notary organizations and experts or academics. The Supervisory Council in question is the Regional Supervisory Council, Regional Supervisory Council and Central Supervisory Council.⁸

This study aims to analyze the effectiveness of the Regional Supervisory Board's supervision of notaries in Denpasar in ensuring compliance with the code of ethics. This research is purely the result of the researcher's thoughts, although there are several other studies that also raise research themes that have similarities with differences, namely the research location and problem formulation points. Therefore, the author examines how Notaries perform in carrying out their duties based on the code of ethics and the role of the Regional Supervisory Council in supervising Notaries, which is interesting to explore further. Especially in the Denpasar city area which is the center of Bali's economy, with economic growth and the large number of Notary formations, there is great potential to be able to answer the problem of how Notaries perform and the supervision carried out in the legal profession. The Supervisory Council has the authority to provide guidance and supervision of Notaries

⁴ Syukur, M. J., Sakmaf, M. S., & Karauwan, D. (2023). Efforts To Prevent Indications Of Criminal Acts In Notarial Deeds Through The Application Of Article 39 Paragraph (2) Of The Uujn: Criminology Studies. *Al-Risalah Jurnal Ilmu Syariah dan Hukum*, 102-122. <https://doi.org/10.24252/al-risalah.vi.40403>

⁵ Hasuri, H., Rokilah, R., & Pitasari, D. N. (2020). Peranan Majelis Pengawas Notaris Daerah terhadap Pelaksanaan Kode Etik Notaris di Kabupaten Serang. *Legalitas: Jurnal Hukum*, 12(2), 275. <https://doi.org/10.33087/legalitas.v12i2.223>

⁶ Lenawati, M. N. (2019). *Reconstruction Of Notary Professional Code Of Ethics In Carrying Out Notary Position Based On Justice Values*. 19(5). https://seajbel.com/wp-content/uploads/2019/11/SEAJBEL19_230.pdf

⁷ Wardio, D., & Hanim, L. (2018). Peranan Majelis Pengawas Daerah (MPD) Terhadap Pengawasan Pelaksanaan Tugas Jabatan Notaris Di Kabupaten Sleman. *Jurnal Akta*, 5(1), 127. <https://doi.org/10.30659/akta.v5i1.2540>

⁸ Putra, D. N. R. A., & Purwani, S. P. M. (2016). Pengawasan Notaris Oleh Majelis Pengawas Notaris Daerah Pasca Putusan MK No. 49/Puu-X/2012. *Jurnal Magister Hukum Udayana*, 5(4), 783-804.

as well as carry out examinations of alleged violations of the behavior and implementation of the Notary's position. The second research from Nedy Kuntjoro is entitled "The Effectiveness of Supervision by the Yogyakarta City Regional Supervisory Council (MPD) on the Behavior of Notaries in the City of Yogyakarta according to the Notary Code of Ethics" with research results that the implementation of supervision carried out by the Yogyakarta City Regional Supervisory Council has so far been effective because the supervision has been in accordance with the work procedures of the Regional Supervisory Council. Meanwhile, supervision and examination of Notaries is carried out by the Supervisory Council, which contains elements of Notaries, so that at least Notaries are supervised and examined by members of the Supervisory Council who definitely understand the world of Notaries better. The third research is Irma Mulia Fitri, entitled "Supervision and Guidance of the Regional Supervisory Council on Notaries Who Commit Violations in East Aceh Regency" with research results that the Regional Supervisory Council's problem is that the work area is too wide. If violations occur against Notaries, they are not immediately prosecuted, usually the Council The Regional Supervisor provides guidance to the Notary. During the inspection of the Notary, many books (repertory) were found by the Regional Supervisory Council, most of which after inspection found the books empty.

2. Methods

In this research, the author uses a type of empirical legal research which is carried out using empirical legal research methods where this legal research is carried out to measure the conformity of practice norms with the norms of the sources of these practices so this research requires direct data from the field.⁹ So researchers will directly trace the performance of notaries in the city of Denpasar in carrying out their duties in accordance with the applicable notary code of ethics. The data collection technique uses 2 techniques, namely the document study technique and the interview technique.¹⁰ The sources in this study were Notaries in the City of Denpasar and the Regional Supervisory Board of the Ministry of Law and Human Rights of the Republic of Indonesia, where the author selected samples of notaries who play a role in the Notary Supervisory Board.

3. Results and Discussion

3.1. The Role of the Regional Notary Supervisory Council in Preventing Violations of the Notary Code of Ethics in Denpasar City

Provisions in the Regulation of the Minister of Law and Human Rights Number 15 of 2020 concerning the Procedures for Examination of Notaries by the Supervisory Council (hereinafter referred to as MLHR No. 15/2020). The Notary Supervisory Council (hereinafter referred to as Supervisory Council) is a body that has the authority and obligation to carry out guidance and supervision for notaries. According to I Kadek Setiawan, as Secretary of the Regional Supervisory Council in Denpasar City, he stated that the Regional Supervisory

⁹ Dinata, N. B. N. A., Agung, A. A. I., & Utama, I. W. K. J. (2023). Tanggung Jawab PT. PLN (Persero) dalam Pelaksanaan Keselamatan dan Kesehatan Pekerja Teknisi Lapangan (Studi pada PT. PLN Rayon Mengwi, Badung). *Jurnal Konstruksi Hukum*, 4(3), 361-367.

¹⁰ Manggala, N. K. E., Mahendrawati, N. L. M., & Utama, I. W. K. J. (2023). Pelaksanaan Perjanjian Kerjasama Antara Ud. Citra Batu Bulan dengan Restoran Nebula Kuta dalam Bidang Supplier Buah dan Sayur. *Jurnal Konstruksi Hukum*, 4(2), 196-201.

Council (hereinafter referred to as MPD) has an important task in developing notaries, including providing training on work administration, behavior procedures and promotions. In this case, the MPD has the authority to provide guidance and supervision to prevent violations committed by notaries, as well as carry out monitoring and evaluation.

The implementation of supervision by the MPD is based on Article 70 letter b of MLHR No. 15/2020, Positions that the MPD has the authority to carry out inspections of Notary protocols periodically 1 (one) time in 1 (one) year or at any time deemed necessary. Supervision of Notaries leads to the enforcement of legal rules that limit the scope of the Notary's office. The aim of this supervision is for Notaries to ensure that Notaries fulfill the requirements set out by the Law Number 30 Of 2004 Concerning the Office of Notary Public (hereinafter referred to as Law No. 30/2004) and the Notary's code of ethics as far as possible in the interests of the general public in providing services. The Notary Supervisory Council is also given the authority to carry out inspections and can also impose legal sanctions on notary officials who violate the rules of notary office.¹¹

According to I Gusti Agung Mirah Chrisma Shanti, as a Notary in North Denpasar, stated that the role of the MPD in developing and supervising notaries has proven to be very effective. Apart from providing administrative guidance, the MPD also plays an active role in handling several legal cases involving notaries. The MPD not only assists in the process of resolving cases, but also acts as a mediator to resolve conflicts that occur. With a comprehensive and proactive approach, the MPD is able to maintain notary professionalism standards and ensure that services to the community are carried out with high integrity. If there is an indication that the violation was caused by the actions of the notary himself who has violated the rules of the Notary Position Law and the code of ethics. So in dealing with the increasing number of notaries in Denpasar City, awareness/compliance is required from each Notary himself. Some of the problems faced by the Regional Supervisory Council (MPD) in enforcing the code of ethics include the increasing number of notaries, limited funds and resources, weak socialization regarding the notary code of ethics, and less than optimal supervision by the Notary Professional Organization.

3.2. Sanctions Given to Notaries Who Violate the Code of Ethics in Denpasar City

The monitoring mechanism by the Notary Supervisory Council is also carried out to resolve problems related to reports from the public, sometimes the public themselves want a process to be completed immediately but do not follow the rules or agreements between the two parties. Regarding the role and supervision of the MPD, the number of Notaries above is of course based on their views and experience in supervising Notaries. The implementation is routine in checking each Notary according to schedule, providing input and suggestions to Notaries who encounter problems in carrying out their daily duties and obligations and also summoning the Notary if there are problems and/or reports from the public regarding problems with the Notary to the MPD.

¹¹ Oktiva, R., Jauhari, I., & Muazzin, M. (2021). Peran Majelis Pengawas Notaris Terkait Pencantuman Klausula Pelindung Diri. *Jurnal Magister Hukum Udayana (Udayana Master Law Journal)*, 10(2). <https://ojs.unud.ac.id/index.php/jmhu/article/view/69894>

The sanction given to a notary who violates the code of ethics is not dismissal from the position of notary, but rather dismissal from membership of the Indonesian Notary Association (INI). Notaries who are subject to sanctions can still exercise their authority as notaries. The notary code of ethics is important to comply with so that notaries can create legal certainty, prevent disputes and provide quality legal services to the public. Parties who feel aggrieved or have evidence of a violation of the Notary Code of Ethics can report the notary to the Notary Supervisory Board or the Notary regulatory authority. The sanction of dismissal given to a notary who commits violations and unlawful acts is not in the form of dismissal from the position of notary but rather dismissal from membership of the Indonesian Notary Association so that even though the notary in question has been proven to have committed violations and unlawful acts, the notary can still make deeds and exercise other authority as a notary, thus the sanction in the form of dismissal from membership of the association certainly does not affect the position of a notary who has committed violations and unlawful acts.

The responsibility in implementing supervision and evaluation for Notary practices in the region, according to I Wayan Sudiana as a member of the MPD, the performance indicators of the MPD can be seen from the provisions contained in the Law No. 30/2004 and the MLHR No. 15/2020. Based on these regulations, the MPD carries out notary protocol inspection activities every quarter. This inspection includes spot checks in the field, where the MPD goes directly to verify and inspect. If problems are found, the MPD will conduct a comprehensive cross-check. Follow-up to these findings can be in the form of direct visits to the location or summoning related parties to provide recommendations, supervision, or coaching. The duties of the Regional Supervisory Board are limited to providing recommendations for violations that occur. The Regional Supervisory Board is then responsible for taking further action based on these recommendations. In terms of imposing sanctions, the authority of the Regional Supervisory Board is limited to providing warnings, both in writing and verbally. Through this mechanism, it is hoped that an effective and fair supervision system can be created, which is able to maintain the integrity and professionalism of notaries in carrying out their duties.

This Examination Team will come to the notary's offices, to meet directly with the notary, and examine the condition of the notary's office and the notary's protocol, which will then be included in the examination report. Third, granting leave permission for up to a month and fourth, appointing a replacement notary while still considering the proposal of the notary concerned. Fifth, determining the storage place for the notary's protocol which at the time of handover of the notary's protocol is 25 (twenty-five)) years old or more. The Third, Fourth, and Fifth Authorities are the administrative authorities of the Regional Supervisory Council, carried out by the Chairperson, Deputy Chairperson, or one of the members who is authorized based on the decision of the regional supervisory council meeting. And sixth, appointing a notary who will act as a temporary holder of the notary's protocol who has been appointed as a state official as stipulated in the Notary Position Law.

The Regional Notary Supervisory Board has an important role in ensuring that notaries in their area comply with the code of ethics and carry out their duties with integrity. To achieve this, the Regional Notary Supervisory Board makes various efforts in socialization, education, and coaching for notaries. The following is a detailed explanation of these efforts, namely socialization such as the Regional Notary Supervisory Board routinely holding socialization

activities to remind notaries about the importance of complying with the code of ethics and applicable regulations, namely conducting Seminars and Workshops, namely by holding seminars and workshops that discuss topics related to the code of ethics, the latest developments in regulations, and cases of violations that can be lessons for notaries. Related to the position of notary is a position that is attached to the notary's personal self. In practice, a notary is required to always be professional and prioritize every behavior based on the notary's code of ethics that has been established by the Notary as a public official in carrying out his duties, carrying out the mandate that comes from 2 (two) sources, namely members of the community who will become Notary Clients and mandates in the form of orders from the Law indirectly to the Notary.

In implementing their duties, Notaries must continue to adhere to the code of ethics that have been regulated and established, according to Sri Andayani as Secretary of the Denpasar City) stated that the Notary Code of Ethics includes various prohibitions and behavioral guidelines that must be followed. One important prohibition is that notaries are not allowed to advertise by stating their position. According to I Wayan Mustika as a member of the Regional Supervisory Board and also as a Notary in West Denpasar, the Notary is required to read the deed to the client and ask whether the contents written in the deed have been understood. This process is important to prevent misunderstandings and ensure that the client fully agrees and understands what is written.

In the Denpasar city area, there are still several gaps for the MPD in acting procedurally or acting quickly, including the time of implementation of activities that arise due to the difficulty of managing time between Notary activities and examination time, the suitability of the implementation time that arises due to MPD members consisting of notary, government and academic elements who each also have activities other than as MPD members, Examination by the MPD which comes from notary elements so that to carry out the examination is considered rigid or inappropriate because the elements supervising the Notary and the supervised are also Notaries themselves so that the implementation is less than optimal and incentive funds for the implementation of supervision are not very appropriate and supervision from government elements is not given intensive funds.

This step also reflects professionalism and transparency in notarial practice, which aims to protect the rights of clients and maintain the integrity of the legal documents made. In avoiding unwanted things, the notary must ensure the client's identity carefully. This includes matching the client's face with the photo on the ID card and verifying the client's signature with the one on the ID card. These steps are very important to prevent fraud and ensure that the person involved in making the deed is truly the interested party. This identity verification also helps maintain the validity and trust in the documents made by the notary.

The Regional Supervisory Council (MPD) and the Notary Honorary Council (MKN) are institutions that have the authority and obligation to foster and supervise notaries, while the Indonesian Notary Association (INI) plays a role in fostering notaries and supervising the Notary Code of Ethics through the Notary Honorary Council which has the authority to foster the morals and ethics of Notaries and conduct investigations into violations of the Code of Ethics and impose sanctions on violators in accordance with its authority. The Supervisory Board is given the authority to conduct examinations of Notaries, hold hearings to examine

alleged violations of the Notary Code of Ethics or violations of the implementation of the Notary's position, make decisions and impose sanctions on Notaries who violate the UUJN and the Notary Code of Ethics. In addition to these problems, there are also administrative problems carried out by the notary itself according to I Kadek Setiawan as the secretary of the Regional Supervisory Council of the Ministry of Law and Human Rights of the Republic of Indonesia stated that there are cases where several notaries do not input data and fill out questionnaires in accordance with the rules set by the Ministry of Law and Human Rights.

In this case the Regional Supervisory Council recommended dishonorable dismissal and the existence of notaries who could not complete their obligations based on public complaints which showed a lack of professional responsibility from the Notary concerned, such as the case below:

Table. 1 Data on Notary Violations in Denpasar City 2017-2023

No	Notary Initial	Type of Violation	Sanction
1.	I.G.M.M.O, SH	Fraud and embezzlement and the existence of the office is unclear	Proposal for Dishonorable Dismissal
2.	N, SH.,M.Kn	Fraud and embezzlement and not opening the office for 2 (two) years	Proposal for Dishonorable Dismissal
3.	N.A.R	Sexual harassment	10 (ten) years imprisonment and dishonorable discharge
4.	N.K.A.S	Fraud and embezzlement	Proposal for Dishonorable Dismissal
5.	A.S.W, SH.,M.Kn	Violation of the Notary Law	Written Warning

(Source: Denpasar City MPD Archives)

The Notary Supervisory Board has the authority to impose administrative sanctions on notaries who violate the code of ethics based on the laws and regulations in force in Indonesia, including the the Law No. 30/2004 and its implementing regulations. If a violation is found, the Regional Supervisory Board will provide a recommendation whether the notary is guilty. After that, an examination will be carried out by the Regional Supervisory Board (MPW). In an effort to maintain the integrity and professionalism of notaries in Denpasar City, the Notary Supervisory Board together with the Indonesian Notary Association (INI) and the Notary Honorary Council have an important role in supervising and enforcing the code of ethics. For notaries who violate the Code of Ethics, the Honorary Council in coordination with the Supervisory Board has the authority to investigate the violation and can impose sanctions on the violators.¹² The formation of this team aims to ensure that the investigation is carried out objectively and comprehensively, involving various relevant professional perspectives and the implementation of the investigation, namely All investigation processes are carried out in accordance with the provisions contained in the MLHR No. 15/2020. This regulation provides

¹² Wardio, D., & Hanim, L. (2018). Peranan Majelis Pengawas Daerah (MPD) Terhadap Pengawasan Pelaksanaan Tugas Jabatan Notaris Di Kabupaten Sleman. *Jurnal Akta*, 5(1), 127. <https://doi.org/10.30659/akta.v5i1.2540>

detailed guidance on investigation procedures, including evidence collection, interviews with witnesses, and document analysis.

4. Conclusions

The role of the Regional Notary Supervisory Council in preventing violations of the Notary Code of Ethics in Denpasar City is that the Regional Notary Supervisory Council is the institution responsible for the guidance and supervision of notaries at the regional level. This institution plays an important role in ensuring that notaries carry out their duties in accordance with statutory regulations and professional codes of ethics. The guidance carried out by the regional Supervisory Council includes outreach regarding legal developments, statutory regulations and the latest legal information. The Regional Supervisory Council has carried out supervision well as an institution that reminds and checks the performance of notaries and acts as an advisor so that notaries carry out their duties in accordance with the position regulations and code of ethics.

The sanctions given to Notaries who violate the Code of Ethics in Denpasar City are to try to maintain the integrity and professionalism of notaries in Denpasar City. The Notary Supervisory Council together with the Indonesian Notary Association (INI) and the Notary Honorary Council have an important role in supervising and enforcing the code of ethics. For Notaries who violate the Code of Ethics, the Honorary Council in coordination with the Supervisory Council has the authority to carry out investigations into these violations and can impose sanctions on the violators.

5. Acknowledgments

The author would like to thank the Postgraduate Department of Universitas Warmadewa, Denpasar, especially the Master of Notary study program. The author has received a lot of encouragement, guidance and motivation from various parties who have supported and provided assistance in completing this writing, both directly and indirectly.

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