



Legal Protection For Notaries By The Notary Honorary Council as A Witness in The Case of Identity Forgery By the Parties Making The Deed

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Abstract

Notary is a legal profession whose rights and obligations have been regulated in such a way in Law Number 30 of 2004 concerning the Notary Position (hereinafter referred to as UUJN). Where in Article 1 of the UUJN states "Notary is a public official who is authorized to make authentic deeds and other authorities as referred to in this Law". However, in terms of carrying out his professional duties, it is not uncommon for a notary to stumble into legal cases such as being a witness in an authentic deed dispute that he has made due to identity forgery by the parties who made the deed. Therefore, the existence of a Notary as a witness in a court hearing requires legal protection, especially from the Notary Honorary Assembly. Departing from this problem, this study has two problem formulations, First: What is the Role of the Notary Honorary Assembly towards Notaries as Witnesses in the Case of Identity Forgery by the Parties Making the Deed?, Second: What is the Legal Protection for Notaries as Witnesses in the Case of Identity Forgery by the Parties Making the Deed?. So to answer these problems, this study uses a juridical-normative research method. The results of this study state that the UUJN has given birth to one of the legal protection instruments for notaries, namely the Notary Honorary Assembly Institution, where one of the main tasks is to give approval or rejection of the request for approval to summon notaries to attend investigations, prosecutions and judicial processes. However, in practice this is still often ignored so that there are many notaries who are harmed by a criminal case.

INTRODUCTION

The profession in the field of law is a profession that continues to develop in accordance with the times. Likewise, the Notary profession as one of the legal professionals in Indonesia, has an increasingly complex role and function. The history of Notaries in Indonesia began at the beginning of the 17th century, precisely on August 27, 1620, Melchior Kerchem was appointed as the first Notary in Indonesia. Melchior Kerchem is a secretary of College van Schenpenen, Jakarta who is in charge of becoming a Notary Publicus. The existence of Melchior Kerchem made it easier for Dutch East Indies citizens, especially Europeans and foreign easterners, to make legal documents in the capital. The appointment of Melchior Kerchem was followed by the appointment of other notaries to accommodate the need for making legal documents that were considered increasingly important, coupled with the busyness of Batavia City at that time, making the addition of Notaries a necessity.¹

Generally, the appointed Notaries are of European and eastern descent because most of the indigenous people do not get a proper education. Nevertheless, there are still indigenous people who are educated and appointed as Assistant Notary. They were noble people or who

¹ Ira Koesoemawati and Yunirman Rijan, 2019, *Notary Position, Raih Asa Sukses*, Jakarta, p. 27.

were on good terms with the colonial government. During the Dutch rule, the Notary institution was formed to accommodate all matters related to the field of civil law, especially the need to prove and regulate the issue of the formation of Notary quotas in an area with the aim that Notaries can live a decent life.²

The definition of Notary is contained in the provisions of Article 1 of Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Regulations on Notary Positions (hereinafter referred to as UUJN), stating that a Notary is a public official who is authorized to make authentic deeds and other authorities as referred to in this Law. Article 1 is actually a copy (derivative) of the same article of the Notary Office Regulation (*De Wet op het Notarisambt in Nederland*) from 1842 stipulating in its Article 1, that "Notaries are public officials (*Openbare ambtenaren*)...".³ As mentioned in the chapter above, although there are some differences in the redaction. This difference in redaction does not affect the content and meaning of the material regulated in Article 1 of each of the Laws.

Article 2 of the UUJN states that Notaries are appointed and dismissed by the Minister. In article 1 number (14) of the UUJN, the Minister referred to is the Minister who carries out government affairs in the legal field. The minister in question is the Minister of Law and Human Rights. The appointment and dismissal of Notaries by the Minister began in 1945 with the promulgation of Law Number 33 of 1945 concerning Deputy Notaries and Temporary Deputy Notaries, previously the appointment of Notaries was carried out by the Governor General (Head of State) based on Article 3 of the Regulation Op Het *Notary Ambt In Indonesia*.

More fully, the meaning of Notary is that the Public Officer is the only authorized to make an authentic deed regarding all the making of agreements and determinations required by the General Regulations or by the interested person is required to be stated in an authentic deed, guarantees the certainty of the date, keeps the deed and provides the Grosse, copies and quotations, all as long as the deed by a general regulation is not also assigned or excluded to the Officer or any other person.⁴

A. W. Voors divides the work of a Notary into two, namely the work ordered by the Law, which is also called legal work, and extralegal work, which is the work entrusted to him in that position. First, it is the duty as an official to exercise some of the government's powers, for example; is to give certainty of dates, make grosses that have executory power and provide certainty about a person's signature, it is the work done by a Notary as a State body (*orgaan vande staat*) and based on that, his actions have the force of law.⁵

Second, another task entrusted to him is to guarantee and maintain the protection of legal certainty. Every citizen has rights and obligations and this is not allowed to be recklessly reduced or eliminated. The presence of a Notary in these matters is required by the Law and this is proof of the trust of the Lawmaker in a Notary.⁶ It is stated in Law Number 2 of 2014 on the amendment of Law Number 30 of 2004 concerning the Notary Position that the duties and authority of notaries as authentic deed makers have a very big role in realizing legal certainty and community protection. This is because authentic deeds are perfect evidence of certain legal acts and or events.⁷

With the abolition of the authority of the Regional Supervisory Council (MPD) in supervising Notaries, the authority to supervise Notaries is given to the Notary Honorary Assembly. So that the Notary has control in carrying out the duties of his office and provides the Notary with legal protection in carrying out the duties of his office. Based on Article 66 A

² *Ibid.*

³ R. Soegondo Notodisoerjo, 1982, *Notary Law in Indonesia An Explanation*, CV. Rajawali, Jakarta, p.41.

⁴ Tan Thong Kie, 2000, *Book I of Notary Studies of Notary Practice Sundries*, cet. 2, Ichtar Baru Van Hoeve, Jakarta, p. 157.

⁵ *Ibid* p. 449.

⁶ *Ibid* , p. 500.

⁷ *Ibid.*

paragraph (1) of the UUJN, the Minister of Law and Human Rights issued the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 7 of 2016 concerning the Notary Honorary Assembly.

The Notary Honorary Council is a new institution consisting of 3 (three) members of the Notary, 2 (two) government members, and as many as 2 (two) experts or academics. The Notary Honorary Council consists of the Central Notary Honorary Council (MKNP), the Regional Notary Honorary Council (MKNW) and the Examination Council. MKNP has the task of coaching and supervising MKNW, MKNP does not have the same authority as MKNW which is directly related to Notary. MKNW has the most important duties and functions related to the implementation of the Notary position, both coaching and protecting the Notary position when the Notary is faced with problems that are contrary to the obligations and authorities of the Notary itself. The Examining Council here was formed by the MKNW which is in charge of conducting an examination of the Notary after obtaining approval for the examination by the MKNW. The Notary Supervisory Council (MPN) that previously existed when compared to the newly formed MKN both have the task of coaching Notaries

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The MKN in carrying out its duties will be more specific related to legal issues in coaching Notaries.⁸ Meanwhile, MPN conducts coaching in stages on a daily basis or at any time related to the duties, obligations, prohibitions and exemptions of Notaries in carrying out their positions so that a Notary is not entangled in legal issues for violations of the Notary Office Law or the Notary Code of Ethics.

Therefore, the author is interested in discussing conducting research related to "Legal Protection for Notaries by the Notary Honorary Council as Witnesses in the Case of Identity Forgery by the Parties Making the Deed". With the following problem formulation:

1. What is the Role of the Notary Honorary Assembly in Notaries as Witnesses in Cases of Identity Forgery by the Parties Making the Deed?
2. What is the legal protection for notaries as witnesses in cases of identity forgery by the parties who made the deed?

The research method used by the researcher in this study is the research method normative juridical. Normative legal research is legal research conducted by examining materials derived from various laws and regulations and other materials from various literature. In other words, this study examines library materials or secondary data. This type of normative research is used in this study because this research departs from the existence of a norm vacuum. The void of the norm in question is the absence of norms that regulate legal protection for Notaries in the preparation of authentic deeds based on forgery of letters by the parties (in the aspect of criminal acts) in the UUJN and the Law on Amendments to the UUJN.

⁸ Parsa W Sarna K., Suharta N., *Juridical Implications of the Legality of Authority (Rechtmatigheid) of the Honorary Assembly in the Development of Notaries as Public Officials*, Acta Comitatus Journal Vol.2, No.1, 2016, pp. 163-180.

DISCUSSION

The Role Of The Notary Honorary Assembly Against Notaries As Witnesses In Cases Of Identity Forgery By The Parties Making The Deed

In carrying out his profession, a Notary can encounter risks that may arise in the future, as well as legal risks related to the implementation of the notary position. Legal risk is the potential for "uncertain" events or events that are "*not expected*" to occur in the future, which are born as a result or consequence of the implementation of the notary office, which are harmful, either in the form of civil risks and/or the risk of liability or criminal risks, which can cause losses, dismissal or dismissal from office.⁹ In this case, one example is the risk of becoming a suspect or defendant or even a convict in a criminal case.

Thus, legal protection has become an urgency for notaries as public officials to be able to exercise their authority without having to fear various problems that will arise in the future. Legal protection can be interpreted as providing protection for human rights that are harmed by others and given to society so that everyone can enjoy all the rights provided by the law. In addition, legal protection can also be interpreted as a guarantee given by the government to each of its citizens to exercise their rights, obligations, and all legal interests in a safe and orderly manner.¹⁰ Thus, legal protection must also be accompanied by the intervention of the state or government, because it is one of the government's responsibilities or obligations in advancing or raising the degree of public health is an integral part of national ideals and goals. This is in line with the provisions in Article 28D paragraph (1) of the 1945 Constitution, which reads:¹¹

"Everyone has the right to legal recognition, guarantees, protection and certainty who are just and treated equally before the law."

With regard to notaries, this is also in line with the section on weighing letter a of the UUJN, which states that:¹²

"That the State of the Republic of Indonesia as a state of law based on Pancasila and

The 1945 Constitution of the Republic of Indonesia guarantees certainty, order, and legal protection for every citizen."

Therefore, what is the target of legal protection for a Notary is;¹³

- a. Individual citizens as "subjects" who hold or hold positions, and
- b. Public positions (public officials) as the actualization of the state's "interests" to provide legal services in the field of making authentic deeds.

Related to this, the UUJN also gave birth to a new institution as an instrument of legal protection for notaries, namely the Notary Honorary Assembly Institution. The Notary Honorary Assembly is a body that has the authority to carry out notary coaching and the obligation to give approval or rejection for the purposes of investigation and judicial process, for taking photocopies of minuta deeds and summoning notaries to attend examinations related to notary deeds or protocols that are in the notary custody.¹⁴ The Notary Honorary Assembly consists of the Central Notary Honorary Council and the Regional Notary Honorary Council.¹⁵

⁹ Bachrudin, 2021, *Notary Law: Legal Protection and Guarantees for Notaries as Public Officials and Citizens*, Thema Publishing,, Yogyakarta, p. 161.

¹⁰ Nurani Ajeng Tri Utami and Nayla Alawiya, "Legal Protection of Traditional Health Services in Indonesia", *Volksgeist Journal*, vol. 1, no. 1 (June 2018), p. 14.

¹¹ Indonesia 1945 Constitution Amendment IV, LN No. 14 of 2006, Ps. 28D paragraph (1).

¹² Indonesia Law on Amendments to Law No. 30 of 2004 concerning the Office of Notary, Law No. 2 of 2014, Considering Letter A.

¹³ *Ibid.*, p. 138.

¹⁴ Indonesia, Minister of Law and Human Rights, *Regulation of the Minister of Law and Human Rights concerning Duties and Functions, Terms and Procedures for the Appointment and Dismissal of the Organizational Structure, Work Procedures, and Budget of the Notary Honorary Assembly*, Number PM 17 of 2021, Ps. 1 number 1.

¹⁵ *Ibid.*, Ps. 3 paragraph (1).

The duties and functions of the Central Notary Honorary Council are to carry out guidance and supervision of the Regional Notary Honorary Council related to its duties. Meanwhile, the duties and functions of the Regional Notary Honorary Council are to examine applications submitted by investigators, public prosecutors, and judges, as well as to give approval or rejection of requests for approval to summon notaries to attend investigations, prosecutions, and judicial proceedings. This is to maintain the dignity and honor of the notary and to provide protection to the notary related to his obligation to keep the contents of the deed confidential.¹⁶

The Notary Honorary Assembly, as also stipulated in Article 66 and Article 66A of the UUJN, is an article that is imperative or an order. This means that in practice, if there is a notary who is summoned by the police, the prosecutor's office or a judge directly without being examined first by the Notary Honorary Assembly, it is the same as trivializing and categorized as a violation of the law.¹⁷ Based on the provisions in the article, it is also emphasized that for judicial proceedings, investigations and public prosecutors in the context of summoning a notary, it must always be preceded by the submission of an application to the Notary Honorary Assembly in asking for approval in advance. Then, if the approval letter is granted, the investigators can only continue the summons to the notary concerned. In this case, it is necessary to conduct an examination of the notary first conducted by the Examining Panel, namely the examining team that has the authority to conduct an examination formed by the Regional Notary Honorary Council.¹⁸

Not only that, considering that the position of Notary is a position based on trust between the Notary and the parties who use his services, the Notary is also obliged to keep confidential the contents of the deed and the information obtained in the preparation of the notary deed. Based on this, a Notary is given the right of renunciation (*verschonings recht*) as well as the obligation of renunciation which is the right to be exempted from the obligation to provide information related to the deed he made, as well as the obligation to refuse to provide information. Therefore, the Notary Honorary Council also plays a role as the "key" to open the Notary's default obligation when facing a criminal justice process, with the approval or rejection of the Notary Honorary Council to the request of investigators, public prosecutors, and judges regarding the content of the deed, photocopy of minuta, or other letters. Thus, the Notary Honorary Assembly and also the exception for the right of default in Article 66 paragraph (1) of the UUJN are the most important in providing protection and equality of position before the law to Notaries in giving information in legal proceedings.¹⁹

Related to this, in addition to being regulated in the Constitution and the Regulation of the Minister of Law and Human Rights No. 17 of 2021, in order to realize harmony in handling problems related to notarization, especially in terms of summoning notaries, the National Police of the Republic of Indonesia has also signed a Memorandum of Understanding No. 06/MOU/PP-INI/VIII/2018 - B/46/VIII/2018 with the Indonesian Notary Association. The Memorandum of Understanding (hereinafter referred to as the MoU), made by INI (Indonesian Notary Association) and POLRI (National Police of the Republic of Indonesia) contains an agreement between the parties in the context of coaching and law enforcement in an effort to improve professionalism, which has the scope of discussion and obligations to:

1) exchange data and/or information;

¹⁶ Habib Adjie, 2017, *Understanding: Notary Supervisory Council (MPN) and Notary Honorary Council (MKN)*, PT Refika Aditama, Bandung, pp. 37 – 38.

¹⁷ Habib Adjie, 2018, *Indonesian Notary Law: Thematic Interpretation of Law No. 30 of 2004 concerning Notary Positions*, cet. 5, PT. Refika Aditama, Bandung, pp. 24 – 25.

¹⁸ Indonesia, Minister of Law and Human Rights, *Regulation of the Minister of Law and Human Rights concerning Duties and Functions, Terms and Procedures for the Appointment and Dismissal of the Organizational Structure, Work Procedures, and Budget of the Notary Honorary Assembly*, Number PM 17 of 2021, Ps. 1 number 3.

¹⁹ Rahmida Erliyani and Achmad Ratomi, 2017, *Research Report: The Existence of the Notary Honorary Council in Criminal Proceedings*, Ministry of Research, Technology and Higher Education, Faculty of Law, Lambung Mangkurat University, Banjarmasin, pp. 6 – 9.

- 2) construction in law enforcement;
- 3) law enforcement, and;
- 4) increasing the capacity of human resources.

The MoU also has binding force because it has fulfilled the elements of the agreement as contained in Article 1320 of the Civil Code. So, if in practice there is still a discrepancy between the two in terms of summoning a notary, then it can be said that one of the parties has committed a default.²⁰ Therefore, there should be harmony and cooperation between the two institutions, in following up on a case involving a notary.

In addition, in terms of sanctioning a notary, in practice it is found that a legal action or violation committed by a notary can actually be sanctioned administratively or civil or the code of ethics for the notary position, but then it is immediately qualified as a criminal act, even though the Constitution and the Code of Ethics for the Notary Position do not expressly regulate the existence of criminal sanctions. Not only that, usually the limitations that are used as the basis for criminalizing notaries are a formal aspect of the notary deed. In this case, there are three aspects related to proof that must be considered when the deed is made, namely the external *aspects (uitwendige bewijskracht)*, formal (*formele bewijskracht*), and material (*materiele bewijskracht*).²¹ These three aspects are the perfection of the notary deed as an authentic deed and anyone is bound by the deed. If it can be proven in a court trial, that one of these aspects is not true, then the deed in question only has the power of proof as a deed under the hand or the deed is degraded to its evidentiary power as a deed that has proof as a deed under the hand, and cannot necessarily impose a criminal penalty on the notary or immediately decide that the deed in question becomes null and void.

Legal Protection For Notaries As Witnesses In Cases of Identity Forgery By Deed Parties

Legal protection for Notaries in carrying out their duties as Public Officials has been regulated in Law Number 30 of 2004 concerning the Notary Position (UUJN) and Law No. 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary. Specifically related to the making of deeds carried out by Notaries, Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions provides legal protection to Notaries as contained in the provisions of Article 4 paragraph (2) of Law Number 2 of 2012 concerning Oath/Promise of Notaries, one of which reads: "that I will keep confidential the contents of the deed and information obtained in the exercise of my office." This provision is further regulated in Article 16 paragraph (1) letter f of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Notary Position, which reads: "In carrying out his position, a Notary is obliged to... e. keep secret everything about the deeds made by him and all information obtained for the deed in accordance with the oath/promise of office, unless the Law stipulates otherwise." However, the limitation of this "Law determines otherwise" is not found to be regulated.

Legal Protection for Notaries in carrying out their duties as Public Officials as regulated in Law Number 30 of 2004 concerning the Notary Position and Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary which is specifically related to the making of deeds is regulated in the provisions of Article 4 paragraph (2) and Article 16 paragraph (1) letter f of Law No. 2 of 2014 concerning the obligation of Notaries to maintain the confidentiality of deeds that It was made to protect the interests of all parties related to the deed it made. This is stated in the Explanation of Article

²⁰ Anak Agung Ayu Intan Puspawati, *Juridical Analysis of the Memorandum of Understanding between the National Police of the Republic of Indonesia and the Indonesian Notary Association*, *Journal of the National Education University*, Vol. 1, No. 2, 2022, p. 258.

²¹ Habib Adjie, *Indonesian Notary Law: A Thematic Interpretation of Law No. 30 of 2004 concerning the Notary Position*, pp. 26 – 27.

16 paragraph (1) letter f of Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position as follows:

"The obligation to keep confidential everything related to the deed and other letters are to protect the interests of all parties involved with the deed."

Based on the provisions of Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions above, there are at least three elements that obtain legal protection. First, the evidence produced by the Notary regarding the legal act or legal event made because the laws and regulations require it to be made by or in the presence of the Notary or regarding the legal act or legal event made because the public members ask the Notary to make evidence that meets the highest or lowest quality standards in accordance with the norms or methods stated in Law Number 2 of 2012. The evidence must obtain legal protection both in court and outside the court in accordance with its quality standards.²²

Second, members of the community who have evidence produced by Notaries both required by applicable laws and regulations and those requested by members of the community. From the beginning, members of the public have the right to know which evidence meets the highest quality standards and which evidence meets the lowest quality standards in accordance with the norms or methods stated in Law Number 2 of 2012 so that members of the public from the beginning before coming to the Notary office have known the quality of the products they will obtain. Members of the public who have evidence with the highest quality standards or the lowest quality standards must obtain legal protection both in court and outside the court in accordance with their quality standards.²³

Third, Notaries as institutions or public officials who produce evidence for members of the public should be protected from the possibility of people who hold the position of Notary who carry out their duties and authorities deviate from Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary which results in the evidence produced does not meet the highest quality standards desired by the members of the community, except from the beginning the members of the community concerned do want evidence of low quality. Persons who hold the position of Notary who produce evidence for members of the public must obtain legal protection both in court and outside the court in carrying out their duties and authority.

Therefore, in accordance with the provisions of Article 16 paragraph (1) letter b of Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position, the Notary is obliged to make a deed in the form of a Minuta Deed and keep it as part of the Notary Protocol. This is intended to maintain the authenticity of a deed. So that if there is a forgery or misuse of grosse, the copy, or quotation can be immediately known easily by matching it with the original. The Notary may only give, show, or notify the contents of the Deed, Grosse Deed, Copy of Deed or Extract of Deed to persons directly interested in the deed, heirs, or persons who acquire rights, unless otherwise provided by laws and regulations. This is in accordance with the provisions of Article 54 of Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary as follows: "In giving, showing, or notifying the contents of the deed, the Notary may give, show, or notify to: (1) persons who have a direct interest in the deed; (2) heirs; or (3) the person who acquires the right.

However, the definition of "person who obtains rights" is not explained or described in Law Number 2 of 2012 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position, so it can give rise to multiple interpretations. One of them is when a person

²² Putri A.R., 2019. *Legal Protection for Notaries: Indicators of Notary Duties with Criminal Implications*PT. Softmedia, Jakarta, p. 37.

²³ Tedjasaputro, Liliana. 1995. *Notary Professional Ethics in Law Enforcement Punishment*, Bigraf Publishing, Jakarta, p. 152.

who feels that his rights are harmed due to the alleged False Deed or False Information in the deed, then the person makes a report/complaint to the Police. By making a report/complaint to the Police, the Police investigator is the "person who obtains the right" to see and know the Contents of the Act, Grosse Deed, Copy of Deed or Excerpt of Deed. Whether the deed is fake or whether there is false information in the deed, it will be easy to know by matching it with the original. However, the Police investigator as a "person who obtains the right" to see and know the Contents of the Deed, Grosse Deed, Copy of Deed or Citation of Deed cannot easily see and know the Contents of Deed, Grosse Deed, Copy of Deed or Citation of Deed because Investigators must also submit and comply with the provisions of Article 66 paragraph (1) of Law Number 2 of 2012, especially before the Decision of the Constitutional Court of the Republic of Indonesia Number 49/PUU-X/2012, dated May 28, 2013 which canceled the provisions of Article 66 paragraph (1) of Law Number 2 of 2012. Prior to the Constitutional Court's decision, the investigator in taking photocopies of the Minuta Deed and/or the letters attached to the Minuta Deed or Notary Protocol in the Notary custody and summoning the Notary to attend the examination related to the deed he made or the Notary Protocol in the Notary custody must be "with the approval of the Regional Supervisory Council (MPD)".

Thus, in order to take a photocopy of the minuta deed and/or the papers placed on the minuta deed, or the Notary protocol in the Notary custody and summon the Notary to attend the examination related to the deed he made, or the Notary protocol in the custody of the Notary, the investigator, public prosecutor or judge must first obtain approval from the Regional Supervisory Council. In the event of summoning a Notary as a suspect, before the approval of the examination is given, the Regional Supervisory Council first hears information from the Notary concerned, the investigator and asks for the opinion of the Honorary Council if necessary as stipulated in Article 1 number 8 letter d of the Notary Code of Ethics. In the event of taking a photocopy of the deed and in the event that the Notary is called as a witness, before the approval of the take-and/or examination is given, the Regional Supervisory Council must first hear the information from the Notary concerned, as stipulated in Article 1 number 8 of the Notary Code of Ethics.²⁴

The next regulation regarding the investigation process of Notaries, both as suspects and as witnesses was made between the National Police of the Republic of Indonesia and the Indonesian Notary Association (INI) and the Association of Land Deed Making Officials (IPPAT), namely the Memorandum of Understanding Number: 01/MOU/PP-INI/V/2006 concerning Fostering and Improving Professionalism in the Field of Law Enforcement (hereinafter referred to as the Memorandum of Understanding). The Memorandum of Understanding basically regulates the mechanism or procedure for summoning a Notary by the Police to provide information in relation to the deed made by the Notary concerned. In the attachment of the Memorandum of Understanding, it is stipulated that the summons of the Notary must be made in writing and signed by the investigator and the summons of the Notary must have obtained approval from the Supervisory Council. The summons letter must also clearly state the reason for the summons, the status of the summons as a witness or suspect, the time and place and its implementation.

Thus, in his capacity as a public official who represents and acts for and on behalf of the state, it is natural for notaries to be given special rights such as the right of default and the obligation of default as described above as a means of legal protection for notaries, especially from the criminal process. This is also strengthened by Article 50 of the Criminal Code (KUHP) which states: "Whoever commits an act to carry out the provisions of the law is not punished." Thus, as long as the notary carries out his position and profession based on the "*minimum standard of service*" that has been determined in the Notary Position Regulation and the notary

²⁴ Tedjosaputro, Liliana. 2018. *Notary Professional Ethics*, Bayu Indra Grafika, Jakarta, p. 212.

code of ethics, the Notary cannot be held criminally liable. In order to increase the effectiveness of legal protection for notaries, law enforcement officials must have a comprehensive understanding of the world of notary, the rules contained in Law Number 2 of 2014, as well as the duties and authority of notaries as public officials who represent and act for and on behalf of the state in carrying out their obligations to provide services to the general public in the field of civil law.

CONCLUSION

Legal protection for a notary has become an urgency that must always exist because there are various risks that can arise in a legal profession or as a public official. In line with this, Law Number 30 of 2004 concerning the Notary Position has given birth to one of the instruments of legal protection for notaries, namely the Notary Honorary Assembly Institution, where one of the main tasks is to give approval or rejection of the request for approval of the summons of notaries to attend investigations, prosecutions and judicial processes. However, in practice this is still often ignored so that there are many notaries who are harmed by a criminal case. In Article 66 paragraph (1) of the UUJN which has now been amended to Article 66 paragraph (1) of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning Notary Positions, which was ratified and promulgated in Jakarta on January 15, 2014. With the right of default and the obligation of default, the Notary can still maintain the confidentiality of everything regarding the deed he makes and all information obtained for the making of the deed. However, the instrument of the right of default, the obligation of default and the exclusive right is not strong enough to be used as an umbrella of legal protection for notaries to anticipate criminalization and criminal acts by law enforcers.

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