

## **Functions And Responsibilities of the Regional Supervisory Council in Carrying Out Supervision and Guidance of Notaries**

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### **Abstract**

*Sanctions against notaries suspected of violating the code of ethics or violation of the exercise of office are carried out through tiered examination stages by the Supervisory Board in accordance with the organizational structure of notary supervision. The procedure starts from the regional Supervisory Council (MPD) which forms an examination team to trace reports or complaints against notaries. After the examination, the MPD prepares the minutes of the examination and provides recommendations for sanctions, which are then submitted to the regional Supervisory Council (MPW). MPW conducts a follow-up hearing and, if sufficient evidence is found, can impose light sanctions such as a written reprimand or moderate sanctions in the form of temporary dismissal for three months. The nature or type of research used in this study is normative research, which aims to examine the principles of legality, justice, and legal certainty using legislation, positive legal norms, and professional ethics, while the nature of the research used in this study is descriptive. Descriptive research is intended to describe data as accurately as possible about humans, conditions, or other phenomena. The functions and responsibilities of the regional Supervisory Council (MPW) in monitoring and coaching notaries have not been running optimally. In practice, MPW tends to focus only on repressive aspects in the form of sanctions without being balanced by coaching and education. MPW is also less ensure the fulfillment of the right of notaries to defend themselves, so the role of supervision does not provide a balanced protection between the public interest and the rights of the profession. Weaknesses in the coordination and implementation of supervisory procedures have an impact on the declining effectiveness of the notary supervision system at the regional level.*

**Keywords:** *Notaries, Regional Supervisory Council, Responsibilités*

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## **INTRODUCTION**

Notary has been known in Indonesia since the Dutch colonial period, considering the Notary is an institution that has long existed in the country. (Yahya Harahap, 1986) The presence of Notary institutions in Indonesia aims to realize legal certainty and protection for the community. In the realm of civil Act (private), the state establishes a Notary as a public official authorized in the manufacture of authentic Actes that have the power as evidence or legal proof documents. (Laurensius Arliman S, 2015)

The regulation on the position of Notary in Indonesia was initially regulated through the regulation *op het Notarisambt* in Nederlands-Indië (Staatsblad 1860 No. 3). Furthermore, in 2004, Act Number 30 Year 2004 on notary position was promulgated. The arrangement was then refined by Act Number 2 Year 2014 About amendments of Act Number 30 Year 2004 on notary position (hereinafter referred to as UUJN), which was passed by the House of Representatives of the Republic of Indonesia on January 17, 2014. In Clause 1 Number 1 UUJNP explains that: “notary means a public official with authority to perform authentic Acte and with other authority as stipulated in this Act or under other Act..”

According to R. Soeroso, notary is a civil servant authorized by the state to make an authentic Acte regarding all acts, agreements, and resolutions required by Acts and regulations, or required by the interested party to be stated in the authentic Acte. (R. Soeroso, 2003) Then according to Subekti notary is a public official who has the task of making the most powerful evidence in the form of an authentic Acte that has the power of perfect proof. (Subekti, 2001) furthermore, Sudikno Mertokusumo said that notaries are public officials who are authorized to

make authentic Actes, provide legal certainty, and protect the rights of the parties in legal acts. (Sudikno Mertokusumo, 1998)

Based on the above definition, Notary is a noble profession that acts as a public official, appointed and dismissed by the state, and is tasked with assisting in the implementation of some government authorities through the manufacture of authentic Actes. Under Clause 1868 of the Civil Code, an authentic Acte must be made by or in the presence of an authorized official, in compliance with the formal form established by Act, and executed in the official's area of Duty. Yusmi emphasized that the fulfillment of these provisions causes the authentic Acte to obtain perfect evidentiary force for the parties and their heirs, as stipulated in Clause 1870 of the Civil Code. (Yusmi Zam Zam Maharani, et.all, 2025)

As a public official, notaries are also obliged to maintain their professional integrity such as requiring the reading of the Acte, verification of the identity of the parties, and signing so that the document has full legal force and does not turn into a mere Acte under hand. Violation of these formal provisions can make the Acte prove defective, so the notary can be subject to administrative, civil, and criminal penalties in accordance with Clause 16 jo. Clause 44 UUIJP. (Salman S. Batalipu, 2024)

The regional supervisory council (MPD) is an institution that has the responsibility to supervise and guide notaries at the district or city level. MPD is given the authority to receive reports from the public, examine allegations of violations by notaries both against the code of ethics and the provisions of Acts and regulations, and provide recommendations for administrative sanctions if violations are proven. In addition, MPD also plays a role in helping solve administrative problems involving notaries in their regions. All duties and authorities of this MPD are contained in Clause 70, Clause 71, and Clause 72 UUIJP, as well as Clause 4 and Clause 7 of the regulation of the Minister of Act and human rights number 7 Year 2016 concerning the notary Supervisory Council.

At the provincial level, the regional Supervisory Council (MPW) serves as an institution that oversees and fosters the performance of MPD, as well as ensuring the implementation of supervisory duties in its region runs effectively. MPW is also authorized to handle appeals against MPD decisions, provide administrative sanctions within the scope of the province, and convey directions or recommendations related to the implementation of the notary profession. MPW is tasked with maintaining the quality and professionalism of notaries through a hierarchical supervision system. The provisions regarding the duties and authority of MPW are regulated in Clause 73 and Clause 74 of the UUIJP and Clause 8 and Clause 9 of regulation of the Minister of Act and Human Rights Number 7 Year 2016.

At the national level, the Central Supervisory Council (MPP) acts as the highest supervisor who formulates strategic policies in the supervision and guidance of notaries nationwide. MPP is authorized to make decisions on appeals filed against MPW decisions, evaluate and coordinate the implementation of notary supervision throughout Indonesia, and establish technical guidelines for supervision. In addition, the MPP can also impose administrative sanctions at the central level. All the authority and duties of this MPP are regulated in detail in Clause 75 and Clause 76 of the UUIJP and Clause 10 and Clause 11 of regulation of the Minister of Act and human rights of the Republic of Indonesia number 7 of 2016.

In addition to containing general provisions related to notary positions, UUIJP also regulates various other aspects, including the definition of Notary positions, procedures for appointment and dismissal, territorial division of positions, determination of place of position, provisions regarding leave, and honorarium arrangements as a basis for remuneration for notary services. In addition, UUIJP also regulates notarial Acte, which includes procedures for taking minutes of Acte, supervision mechanisms by professional organizations, procedures for calling notaries, and other provisions related to the implementation of the duties and authority of the notary position. (R. Saputro, 2014)

While the Notary Ethics Code is defined as a guideline that regulates the moral rules for notaries in carrying out their duties and handling problems during their tenure. This provision is affirmed in Clause 2 of the notary Code of the Indonesian Notary Association, which describes the scope of its application. The code of ethics applies to all members of the notary society and other parties who exercise the position of Notary, covering not only the performance of official duties, but also behavior in everyday life. (S. Sulistiyono, 2012)

Based on changes in the Notary Ethics Code set forth in the special congress of the Indonesian Notary Association held in Banten on 29-30 May 2015, the Notary Ethics Code is defined as a decision set and supervised by the Indonesian Notary Association. This provision applies to all members of the Indonesian Notary Association, including those who carry out their duties as notaries, temporary notaries, and substitute notaries. The Notary, as a public official authorized to carry out the duties of his position, must always act in accordance with the provisions stipulated in the legislation and the Code of ethics of Notaries. The Notary Ethics Code is established by the Indonesian Notary Association (ini) based on the decision of the General Assembly of the Association. In general, the Notary Ethics Code includes arrangements regarding obligations, prohibitions, sanctions, procedures for implementing the code of ethics, as well as the duties of the Indonesian Notary Association (ini). The Notary Ethics Code serves as a complement to the UUJNP and as a guideline for notaries in carrying out their duties and maintaining and enforcing professional ethical values. (Faradina F, 2011)

The purpose of the Notary Ethics Code is to ensure that notaries can perform their functions professionally and motivate them to carry out their duties properly. In addition, this code of Ethics also aims to improve intellectual abilities, the ability to argue factually and critically, and uphold moral values. As a professional organization, the Indonesian Notary Association has an important role in ensuring the implementation of the rules of the notary Code of ethics. Notaries are required to carry out their duties in accordance with established Acts and regulations. (Andrian Sutedi, 2009)

According to the study by Wahdan et al. (2022), entitled 'The Powers of the Regional Notary Supervisory Board (MPD) in Overseeing the Notary Code of Ethics Following Constitutional Court Ruling No. 49/PUU-X/2012', the Regional Notary Supervisory Board (MPD) has only the duty and authority to provide guidance, through periodic inspections at least once a year, and investigations into public complaints regarding alleged breaches of the notarial code of ethics or alleged misconduct in the notarial office. In line with the research by Dewi Fatimatussahroh S.S (2024), the Regional Supervisory Council has the role of examining, providing guidance and supervising the duties and office of notaries, as well as the conduct of notaries both in and outside their official capacity, in order to ensure legal certainty and protection for the public and parties using the services of notaries. Meanwhile, the role of the Regional Honorary Council is limited to enforcing the guidance and supervision of the code of ethics, and the Regional Honorary Council is independent of any party, serving merely as an instrument of the I.N.I. association.

Regarding research on the role of the Regional Supervisory Council (MPD) also conducted by Dwicky Bagus Wibisono and Umar Ma'ruh (2018), the Implementation of Supervisory Duties for Notaries of the Regional Supervisory Council is a mandate of the Notary Position Law, specifically Article 67 Paragraphs (1) and (2) which states that the minister has the authority to supervise notaries and in carrying out his supervision the minister forms a supervisory council. "A notary is a public official who is authorized to make authentic deeds and other authorities in accordance with applicable provisions. As a public official, a notary is appointed and dismissed by the minister, in this case the minister who has duties and responsibilities in the field of notary is the Minister of Law and Human Rights.

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notaries by the Regional Supervisory Council is mandated by the Notary Public Act, specifically Article 67(1) and (2), which states that the Minister has the authority to supervise notaries and, in carrying out this supervision, the Minister establishes a supervisory council. "A notary is a public official authorised to draw up authentic deeds and exercise other powers in accordance with applicable regulations. As a public official, a notary is appointed and dismissed by the Minister; in this case, the Minister responsible for notarial affairs is the Minister of Law and Human Rights.

Sanctions against notaries suspected of violating the code of ethics or violation of the exercise of office are carried out through tiered examination stages by the Supervisory Board in accordance with the organizational structure of notary supervision. The procedure starts from the regional Supervisory Council (MPD) which forms an examination team to trace reports or complaints against notaries. After the examination, the MPD prepares the minutes of the examination and provides recommendations for sanctions, which are then submitted to the regional Supervisory Council (MPW). MPW conducts a follow-up hearing and, if sufficient evidence is found, can impose light sanctions such as a written reprimand or moderate sanctions in the form of temporary dismissal for three months. If the violation is considered serious, MPW can only make a permanent dismissal proposal to the Central Supervisory Council (MPP), which has the authority to propose dismissal with disrespect to the Minister of Act and human rights. The minister then issues a final administrative decision in the form of a dismissal decision letter, after a code of conduct hearing by the MPP with due regard to the notary's right of self-defense, as affirmed in Clause 74 Verse (2) of the UUNJP. All of these steps must be carried out in accordance with the principles of good governance, especially the principles of openness, proportionality, and protection of the subjective rights of notaries examined.

## RESEARCH METHODS

The nature or type of research used in this study is normative research, which aims to examine the principles of legality, justice, and legal certainty using legislation, positive legal norms, and professional ethics, while the nature of the research used in this study is descriptive. Descriptive research is intended to describe data as accurately as possible about humans, conditions, or other phenomena. (Soejono Soekanto, 2019) This study is a literature study, so the approach used in this study is the UUNJP, Civil Code, and Criminal Code approaches and a literature study of Decision Number 3/Pdt.G/2022/PN Plk. The normative approach, also known as the legal approach and literature study, is used in this research to determine the research problem and establish a relationship with the research subject.

The normative legal approach is a method of legal research that focuses on the study of legislation, doctrine, and other written sources of law. Through this approach, research is conducted to understand, interpret, and analyse applicable legal norms in order to obtain an overview of how the law should be applied in the practice of social life. Thus, the normative legal approach prioritises the use of secondary data in the form of primary and secondary legal materials as the basis for analysis in the preparation of legal arguments.

## RESULTS AND DISCUSSION

Notary as a public official has a high legal and ethical responsibility in carrying out his position. Therefore, violations of the provisions of the Act and the code of professional ethics can be subject to various forms of sanctions. This sanction aims to maintain the integrity, professionalism, and public trust in the notary institution. Based on the UUNJP and the notary

Code of ethics, sanctions can be imposed by the regional Supervisory Council and / or the Honorary Board of professional organizations such as the Indonesian Notary Association (ini) after an examination process according to legal procedures. (Hadi, 2019)

Sanctions against violations of the Act are divided into three types, namely administrative, civil and criminal sanctions. Administrative sanctions are imposed by the Supervisory Board based on the degree of misconduct, ranging from oral reprimand, written reprimand, temporary dismissal, to permanent dismissal. Meanwhile, civil penalties are usually related to a lawsuit from an injured party due to an act made by a notary. Criminal sanctions are imposed if notaries commit criminal acts such as forgery of acts, abuse of office, or gratuities, which are processed by act enforcement officers through the General Court. (Kusuma, 2017)

In addition to legal sanctions, violations of the code of ethics are also a major concern for notarial professional organizations. Violations of the code of Conduct include unprofessional, non-neutral behavior, leaking act secrets, or providing services beyond the limits of legal authority. The notary Honor Board may impose ethical sanctions such as warnings, special coaching, freezing of organizational membership, or recommendations for removal from office. Despite their moral nature, serious ethical violations can have a legal impact and strengthen the basis for the imposition of administrative or criminal penalties by the state. (Rachmawati, 2021)

It is important to note that the imposition of sanctions must go through a fair examination procedure (due process of Act), which gives the notary the opportunity to defend himself, present evidence, and find out the charges levied. This is in line with the principles of justice in the legal system. In practice, there have been a number of criticisms of the sanctions process that is carried out without going through the correct stages, such as the absence of an official summons or a decision that comes out without an examination hearing, which has the potential to cause further legal disputes. (Yulia, 2015)

The sanctions given are not merely a form of punishment, but also have a coaching and preventive function so that similar violations do not occur in the future. Therefore, it is important for supervisory boards and professional organizations to not only focus on repressive sanctions, but also carry out coaching through training, socialization of regulations, and strengthening professional ethics. With a fair and proportionate system of supervision and sanctions, it is expected that the notary profession remains within the legal and ethical corridors that uphold legal certainty and justice for the community. (Hadi, 2019)

In the perspective of State Administrative Act, an administrative decision that violates the general principles of good governance (AUPB), especially the principles of legal certainty, justice, and accuracy, can be canceled through the judicial mechanism. This is in line with the opinion of Philipus M. Hadjon emphasized that supervision of the actions of public administration officials must be carried out in order to ensure that there is no abuse of power or abuse of authority. Disrespectful dismissal decisions that are not based on formal mechanisms and fair substance have the potential to violate the AUPB.

In terms of justice theory, John Rawls explains that procedural justice is a necessity in the rule of Act, because justice lies not only in the final result but in a fair process in achieving it. In this context, notaries as citizens and public officials must be protected their rights to obtain an objective, proportionate and open examination. Dismissal made without listening to his defense is tantamount to a violation of the principle of fair equality of opportunity on which a fair legal system is based.

Regional supervisory council (MPW) is one of the elements of external supervision of notaries as stipulated in Clause 67 Verse (1) UUJNP. MPW functions to supervise the implementation of notary duties in its work area, including examining suspected violations, providing guidance, and proposing sanctions to the Central Supervisory Council if violations of the code of ethics or Acts and regulations are found by the notary concerned. This function is coordinative with the regional Supervisory Council (MPD) and is administrative to the notary.

Normatively, MPW has the responsibility to ensure that the process of examination of notaries is carried out objectively, accountable, and upholds the principle of due process. MPW not only has the task of taking action, but also fostering and facilitating clarification of complaints. Based On The No. M. 02. PR. 08. 10 of 2004, MPW can only impose administrative sanctions if it has obtained a recommendation from the MPD and has provided an opportunity to defend themselves to the notary.

Public oversight theory emphasizes the importance of the oversight function in ensuring that public officials perform their duties responsibly and professionally. According to the theory, ideal surveillance should involve three aspects: preventive (preventing violations), educative (encouraging understanding of norms), and repressive (cracking down on violations). In the context of MPW, the preventive function can be realized through periodic training, while the educative function through the extension of the code of ethics, and the repressive function through the imposition of sanctions in accordance with the level of violation. According to Ruslan in the journal *Legal Opinion*, supervisory boards, especially MPW, should carry out supervision in layers and be responsive to the context of violations, not just repressive.

In this case, the MPW is obliged to review in depth whether the violation actually occurred in the context of the notarial position, given that in the criminal decision used as the basis for dismissal, Agustri Paruna acted as a PPAT, not a notary. In other journals by Ria Trisnomurti and I Gusti B. Suryawan mentioned that MPW has a strategic function in mediating between the administrative authority of the state and the protection of the notary profession from arbitrary action. The MPW should also be responsible for reviewing whether the sanctions imposed have been balanced with the violations committed, and preventing excessive use of power by supervisory agencies over public officials. (Ria Trisnomurni dan I Gusti B. Suryawan, 2017)

Coaching functions that are not running optimally ultimately reduce the overall effectiveness of supervision. When MPW only focuses on repressive aspects without including education and evaluation of the roots of violations, supervision tends to be a tool of repression and not an instrument for improving professional integrity. In fact, supervision should be dynamic and corrective in order to maintain the dignity of the notary position. (Henny Marlyna dan Nabila M. Putri, 2021)

Thus, MPW as a supervisory entity at the regional level should carry out its role in full accordance with the norms, principles and theories of public supervision. In practice, supervision by MPW must uphold the principles of objectivity, prudence, proportionality, and emphasize coaching as the main goal, not just imposing sanctions. The failure of the MPW to carry out this principle can have implications for defects in administrative procedures that open up space for the annulment of decisions by the courts. (Yuliandari dan Oppusunggu, 2021)

## CONCLUSION

The functions and responsibilities of the regional Supervisory Council (MPW) in monitoring and coaching notaries have not been running optimally. In practice, MPW tends to focus only on repressive aspects in the form of sanctions without being balanced by coaching and education. MPW is also less ensure the fulfillment of the right of notaries to defend themselves, so the role of supervision does not provide a balanced protection between the public interest and the rights of the profession. Weaknesses in the coordination and implementation of supervisory procedures have an impact on the declining effectiveness of the notary supervision system at the regional level.

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