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Implementation of the Principle of Recognizing Service Users for Notary (Study of Application of Article 2, Paragraph (2) Permenkumham No. 9 of 2017 in Malang City

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ABSTRACT

The presence of a notary in the midst of society is very important, because a notary can provide guarantees of legal certainty related to making authentic deeds. According to Permenkumham No. 9 of 2017, notaries are required to follow the principle of recognizing service users. This obligation is borne by Reporting Notaries Parties in reporting questionable service users' financial activity as well as a form of protection for Protecting notaries from the risks of money laundering and steps to bolster government initiatives to combat money laundering. However, in implementing this principle there are still several notaries who have not implemented it. The problems studied in this study are related to the effectiveness of implementing the idea of recognizing service consumers in accordance with Permenkumham No. 9 of 2017 as the legal basis of Notaries in Malang City. The research method used is socio-legal with a sociological approach or looking at the implementation of norms in the field. The results of the study show that notaries in Malang are still found not to have implemented PMPJ based on Permenkumham No. 9 of 2017, PMPJ is considered a Notary. then the implementation is not effective, even though the legal substance has provided rules, the implementation of this article is hampered by several factors, namely the Notary Factor itself originating from an internal Notary who does not apply it, does not understand the obligation to apply the Principle of Recognizing a Service User (PMPJ) based on Permenkumham No. 9 of 2017, Inadequate facilities, notary's lack of understanding regarding how to control/use the IT system, and there are no strict sanctions from the Ministry of Law and Human Rights against notaries who do not implement PMPJ

INTRODUCTION

The presence of a notary in the midst of society is very important, because a notary can provide guarantees of legal certainty related to making authentic deeds. An authentic deed is evidence of a legal action's existence and the strength of the deed remains legally enforceable even though the Notary who made the deed is no longer active. This causes the notary's position to be very important for the creation of legal certainty and protection for the community.

Notaries must be able to act professionally based on a noble personality while doing their duties, always abiding by all applicable rules and regulations, and supporting the Notary Professional Code of Ethics as a standard that must be followed. Notaries need to be conscious of what is referred to as professional behavior, which includes the following characteristics: having strong moral integrity, being truthful with their clients and with themselves (intellectual honesty), being aware of their authority's boundaries, and not acting simply in accordance with financial considerations.

There are 2 (two) deed made by a Notary, namely As per G.H.S. Lumban, a relaas deed and a partij deed A relaas deed is one that the deed maker, who is the Notary acting in the capacity of his office, tobing a relaas deed, describes in detail and in an authentic manner. confirmed in an authentic deed. Examples of partij deed, among others: credit agreement.

According to R. Soergondo, A deed that has been made and formalized in law by or before a public authority who is allowed to do so at the location where the deed was made is said to be authentic.

A notary public's duties as such is guided by and bound by the rules contained in Law No. 2 of 2014 relating to the Notary Position, Civil Code, and Notary Code of Ethics, and other legal regulations. Regarding his authority, apart from being authorized A Notary has additional special powers to create authentic deeds that are outlined in Article 15 paragraph (2) UUJN, including the ability to verify the accuracy of the company's financial statements,

certify the signature and determine the certainty of the date of private letters by registering them in a special book, record documents carried by hand by registering them in a special book, make copies of private documents in the copy formats that include the explanations that were written in the pertinent private correspondence and described, and make copies of private documents auction minutes. Other authorities of Notaries are also regulated in Article 15 paragraph (3) UUJN.

In line with the times and the pace of the economy which continues to grow and develop rapidly in various types of financial transactions which have increased, various business transactions involving the role of a Notary are also increasingly varied, this is due to the need for business people or interested parties to authentic written evidence. However, the Notary must be careful because not all transactions that come before the Notary do not violate the law, sometimes there are also parties who come in bad faith to carry out a financial transaction where there is an unlawful act with the aim of benefiting from the protection behind it. the provisions on the secrecy of the Notary profession as regulated by the provisions based on the position of the Law a Public Notary, so that the transactions carried out appear clean. One form of this crime is laundering money.

A form of money laundering form of white collar crimes used by perpetrators of criminal acts who want to hide the benefits gained through unlawful activities. Drug dealers and suppliers of counterfeit goods often commit money laundering crimes to hide their source of income.

In supporting efforts to prevent and eradicate money laundering, the House of Representatives and the Indonesian government has established Money Laundering Law Number 8 of 2010 concerning Prevention and Eradication of Money Laundering Crimes, State Gazette of the Year 2010, Number (hence referred to as UU PPTPPU) 122, which revokes Law Number 15 of 2002 concerning the Crime of Money Laundering, and Law Number 25 of 2003 concerning Amendments to Law Number 15 of 2002 concerning the Crime of Money Laundering.

One of the interesting new legal breakthroughs in The following is the PPTPPU Law. the money paradigm. Follow the money is an innovative approach of eliminating crime or a new approach in eradicating ML.

Head of Legal Services Erni Mamo Li (30/04/2021) stated that The Prevention and Punishment of Money Laundering Law No. 8 of 2010 and the Prevention and Punishment of Criminal Acts of Terrorism Law No. 9 of 2013 Financing, as a movement to prevent and eradicate anti-money laundering or prevention of terrorism financing is the background for implementing the Application identifying service users (PMPJ).

Described the Article 3 PP No. 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes, including: Advocates, Notaries, Officials for Making Land Deeds, Accountants, Public Accountants and Financial Planners. One of the reporting parties in preventing the eradication of money laundering crimes (TPPU) is a Notary, so this obligation must be carried out by a Notary as an effort to assist the State in preventing and eradicating Money Laundering Crimes. This obligation is fulfilled whenever Having a commercial partnership with a client is established, there is a financial transaction involving rupiah currency and/or foreign currency valued at at least Rp. 100,000,000.00 (one hundred million rupiah), there is a suspicious financial transaction involving the funding of terrorism or money laundering, or a notary has reason to doubt the accuracy of the information provided by the service user.

Based on Article 2 Paragraph (2) Regulation of the Minister of Law and Human Rights No. 9 of 2017 concerning the Principles of Recognizing Service Users For Notaries ordering Notaries to apply the Principles of recognizing Service Users as referred to in Paragraph (1) at least contains: Identification of service users, Verification of service users and Monitoring of service user transactions, but in reality it has not been implemented effectively effective. based on the outcomes of the researcher's consultation with a notary and PPAT in Malang City,

namely Mr. Ricky Sanjaya, S.H., M.Kn he said that he already knew about Regarding the implementation of the Principle of Recognizing Service Users, Permenkumham No. 9 of 2017 (PMPJ), but according to him to implement mandate from Permenkumham No. 9 of 2017 cannot be fully implemented, as in Circular No. AHU.UM 01-01-1232 Concerning recommendations for putting the idea of recognizing service consumers into practice such as verifying documents by confirming with agencies authorized to issue service user documents, for example accessing E-KTP information to the Ministry of Home Affairs, according to him, Notaries are only obliged to look for formal data which of course it boils down to mere formal truth. According to Mr. Ricky Sanjaya, S.H., M.Kn, the Notary has no obligation to go deep into searching for data and prove The tangible reality of the interests of the appearers. No notary is present burdened with the obligation to check remotely whether the identity card of the person appearing is genuine or fake, whether a person's birth certificate is genuine or fake. Then he added that monitoring service user transactions both electronically and non-electronically could not be realized because notaries were not provided with facilities to access service user transactions that came before a notary only to know their identity, work profile and needs in terms of what would later be checked whether it was classified as in the low, medium or high risk criteria in the PMPJ form in the goAml application.

Based on the description of the problems described above, it is necessary to conduct research on "Application of the Principle of Recognizing Service Users for Notaries (Study of the Application of Article 2 paragraph 2 of Permenkumham No. 9 of 2017 in Malang City)". Research is important to do because apart from demonstrating problems in the use of the Notaries' Principle of Recognizing Service Users, this research will also contribute to improvements in efforts to increase the application of PMPJ. In accordance with the background of the problems that have been described, the author will examine how the effectiveness based on Permenkumham No. 9 of 2017 on the authority of

Notaries for identifying service users. in Malang City.

METHODS

Socio-legal research is the methodology employed. This study was chosen because it began with real-world legal issues (law in action), and its goal was to gauge and evaluate how well Article 2 was being implemented. (2) Regarding the Application of the Principle of Recognizing Service Users for Notaries, Permenkumham No. 9 of 2017 and the social sciences approach which explains the relationship between law and society. In addition, the study regarding the application of this article is limited to the implementation of the idea that Notaries should acknowledge service users in Malang City.

RESULTS AND DISCUSSION

The Financial Action Task Force (FATF) is an intergovernmental body established to set effective standards in an attempt to stop money laundering Crimes (TPPU) and Terrorism Financing Crimes (TPPT) and other criminal threats against the international financial system. Indonesia is a country that was previously blacklisted by the FATF as a country prone to money laundering and terrorism financing, which was revoked from the blacklist in February 2016. In order to become a member of the FATF, Indonesia is required to implement 40 (forty) FATF recommendations, where recommendations 22 and 28 specifically regulate the monitoring regime for Designed Non-Financial Businesses and Professions (DNFBPs) which are at high risk of being involved in ML/TF, research PPATK stated that the Notary profession is very prone to being utilized by those who engage in money laundering to conceal or obscure the source of assets obtained via illicit activity.

Based on the results of Indonesia's Mutual Evaluation Review (MER), which has been reviewed by FATF in measuring Indonesia's level of compliance with 40 FATF recommendations, it shows that Indonesia's Basel AML Index assessment score, which was originally recorded in 2018, was 5.73, dropping to 4.62 in year 2020.

Various efforts were made by the Government in terms of fulfilling 40 FATF recommendations and to prevent money laundering crimes. One of the Government's efforts is to issue a regulation regarding the application of the principle of recognizing service users. The regulation regarding the application of the principle of recognizing service users is apart from being an effort by the Government to prepare Indonesia is expected to join the FATF as well as an effort to prevent money laundering which is an extension of Law No. 8 of 2010 concerning Money Laundering Crimes.

Referring to Law No. 8 of 2010 regarding the definition of money laundering is a process that has the objective of disguising sources of money or assets obtained from criminal acts that are converted into assets that appear to originate from legal activities. Laundering of money is not a predicate offense but rather the aftermath of a crime which has several elements including elements of the original crime which resulted in a crime, elements of an act committed against the proceeds of crime and elements of assets obtained from the proceeds of crime. In order to prevent the crime of money laundering, implementing regulations have been established to regulate parties who are tasked with reporting money laundering crimes or known as reporting parties as regulated in PP No. 43 of 2015.

Based on PP No. 43 of 2015, Notaries along with other professions such as advocates, PPAT, accountants, public accountants and financial planners are given reporting requirements for questionable financial activities that lead to money laundering to PPATK (financial exchange Reporting and Research Center) in the form of implementation the idea of acknowledging service users. The purpose of appointing using a Notary one of the reporters in submitting suspicious financial transaction reports to PPATK is as a policy to stop the abuse of Notary's authority related to keeping the contents of the deed confidential which is often used by perpetrators of money laundering crimes. The principle of recognizing service users is a principle that must be applied by a group of professionals who are classified as reporters in the prevention and

eradication of money laundering crimes which must be submitted to PPATK, as an independent institution established in the context of preventing and eradicating money laundering crimes. In addition, PPATK plays a crucial part in the process of eradicating launder money crimes, if PPATK does not carry out its functions properly then the effectiveness of the implementation of the Money Law laundering crimes cannot be achieved.

From the results of research conducted at the Notary Office of Malang City. The author found various answers regarding perceptions or experiences regarding the application of PMPJ for Notaries based on Permenkumham No. 9 of 2017. Based on the results of the interviews that have been conducted, the writer obtained from the Malang City Notary a total of 16 answers or responses with the following details:

Table 1. Distribution of Notary Sources in Malang City

Number of Notaries in Malang City	Number of Samples	Number of Responses	Unresponsive	%
158	22	16	6	10,1%

To find out the "perception" OR knowledge of Notaries in Malang City regarding Article 2 paragraph (2) Permenkumham No. 9 of 2017, the author, in this case, asks a question to the Notary with the question "Do you know that a Notary must implement PMPJ which contains at least:

Identification of Service Users, Verification of Service Users and Monitoring of Service User Transactions?". To find out the answer, the following will be presented in tabular form:

Table 2. Knowledge of Notaries in the Malang City Region Notaries Must Apply PMPJ Based on Article 2 Paragraph (2) of Permenkumham No. 9 of 2017

Malang City Notary	Number of Samples	Number of responses	Know	No
158	22	16	7	9

If you look at the table above, compared to those who know more Notaries do not know about the obligation to apply the principle of analyzing service users based on Permenkumham No. 9 of 2017, namely if the percentage in this case is 43.75%. While those who know amounted to 56.25%. even so, in practice, there are also Notaries who already know about the contents of the PMPJ obligations but have not implemented them. This will be explained in the next table.

After exploring perceptions, a question was then asked about "experience" and whether the Notaries interviewed had ever implemented PMPJ which contained at least identification, verification and monitoring of service user transactions. The amount of data found is as follows:

Table 3. Experience of Notaries in Malang City in Implementing PMPJ Includes Identification, Verification and Monitoring of Service User Transactions Based on Article 2 Paragraph (2) of Permenkumham No. 9 of 2017

Malang City Notary	Number of Samples	Number of Responses	Once	No
158	22	16	3	13

The table above shows a significant discrepancy, if the percentage total of 81.25% of Notaries who have never implemented PMPJ for Notaries based on Article 2 paragraph (2) Permenkumham No. 9 of 2017 which contains at least identification, verification and monitoring of service user transactions. This number shows that although in terms of perception, 43.75% of Notaries know, only 18.75% of their experience admit to having applied it. At least notaries who have used this instrument show that Article 2 paragraph (2) of Permenkumham No. 9 of 2017 proved to be little known and implemented effectively in implementing PMPJ for Notaries in Malang City.

Testing the Effectiveness of Article 2 paragraph (2) Permenkumham No. 9 of 2017 Between Theory and Practice

The answer to the effectiveness of Article 2 paragraph (2) Permenkumham No. 9 of 2017 it can be seen after seeing the research findings from a sample of Notary Offices in Malang City, that it can be concluded that the quo article is not working effectively for several reasons. However, these answers still have low validity because these findings have not been tested/verified with theories or legal norms. The legal effectiveness test is a scientific assessment regarding the application of legal activity. The testing tools used in the context of this legal research are legal theories that are considered relevant to answering problems. The relevant legal theory as a test tool in this case is of course the "legal effectiveness theory". As previously mentioned,

considering the large number of legal experts discussing the theory of legal effectiveness, in this study the theory of legal effectiveness/legal system theory from Lawrence M. Friedman was chosen.

To assess the effectiveness of legal activity, Lawrence M. Friedman has provided a theoretical construction in the form of a legal system. That to assess the effectiveness of legal activities can be seen from the sub-systems consisting of legal substance, legal structure and legal culture. According to Friedman, the operation of the law is said to be effective if these elements run coherently and optimally.

Even though it has been explained in theory about the concept of each sub-system, the author's view is that it is still not applicable as a test or analysis tool. For this reason, the author, in this case, tries to make indicators by elaborating on the concepts of the subsystems that have been described by Friedman. This indicator of legal effectiveness has been conveyed by the author in explaining the operational definition of the research method. This indicator will be used to test or assess the effectiveness of Permenkumham No. 9 of 2017 in the Malang City Notary Office area.

Based on the research findings that have been previously described which consist of findings from the experiences of Notary/PPAT Offices in the Greater Malang area. If these findings are related to indicators of legal effectiveness, they can be described as follows:

Table 4. Legal Effectiveness Article 2 Paragraph (2) Permenkumham No. 9 of 2017 Concerning the Implementation of PMPJ at the Malang Notary Office

No.	Component	Parameter	Effective
1.	Legal Substance	1. Is there adequate legal regulation?	Yes
		2. Is the content or meaning of the rules easy to understand?	Yes
		3. Is the rule of law arranged systematically and synchronously?	Yes
		4. Does the rule of law form an administrative mechanism?	Yes
		5. Does the general public know the contents of the regulations in question?	No
		6. Is there an administrative mechanism that is accessible and can be carried out by every member of the community?	No
2.	Legal Structure	1. Does law enforcement know the contents of the relevant regulation?	Yes
		2. Is the regulation in question enforced by law enforcement?	No
		3. Is the application of the law by the rules in question?	No
		4. Are there any obstacles to the application of the law related to the regulations in question?	Yes
3.	Legal Culture	Is there an acknowledgment and a general acknowledgment among the public that the rule of law and legal institutions are indeed effective?	No

First, in terms of legal substance or legal regulations, adequate legal regulations are available, namely Permenkumham No. 9 of 2017. This means that the implementation of PMPJ for Notaries has been fulfilled because the legality of the norms is already available. Then in terms of the content of the norm or its meaning, the phrase Permenkumham No. 9 of 2017 is formulated specifically and clearly. In addition, the quo article is also classified as a concrete and technical norm because it is located in the content of the material in the Ministerial Regulation where the candy is classified as "executing regulation" (verordnung/ delegated legislation).

Furthermore, in terms of systematic and synchronizing norms, Permenkumham No. 9 of 2017 in the opinion of the author is quite structured and

placed systematically and precisely. Furthermore, this has been supplemented with a Circular Letter Number AHU.UM.01.01-1232 concerning Guidelines for the Implementation of PMPJ for Notaries clearly, so from this the author has the right to say that the norms have been arranged systematically and in sync because they do not conflict with each other.

Then related to the indicators or the question of whether the rule of law, in this case, is Permenkumham No. 9 of 2017 established as an administrative mechanism? Normatively, of course, the answer is "yes". The norm should be formed to form the basis of legal activity, in this case, the Guide to the Implementation of PMPJ for Notaries. However, if the question is examined outside the legal substance subsystem framework, then in the

context of this legal issue the answer is "no". This is because operationally in several Notary Offices in Malang City, the implementation of PMPJ is not running effectively. Thus, the author's reasoning, in this case, states that the legal mechanism has been formed in terms of norms or legal substance.

The next indicator is whether the general public knows the contents of the regulations from Permenkumham No. 9 of 2017. The general public referred to in this case is the subject of the implementing norms so that it is possible for 2 (two) parties, namely the Notary or the public who conduct business relations with the Notary. The author in this case decides to choose a Notary because they are the ones who have the most potential to know about these norms because of their experience and position duties.

The connection with whether or not the rules of Article 2 paragraph (2) Permenkumham No. 9 of 2017, it turns out that many notaries in the Malang City area already know about it, but some of those interviewed have not understood the contents of the quo rule. This was also reinforced by the results of interviews with the Chairman of the Malang Raya Pengda, Bapak (RIR)

A similar matter was conveyed by the WIS Notary who was aware of the existence of Permenkumham No. 9 of 2017 but in the habit of conducting business relations, they don't do PMPJ at all and don't understand the contents of the Permenkumham. Then Notary Mr. JHL said that Notaries in Malang City still lacked understanding regarding the meaning of the obligation to carry out PMPJ so the Ministry of Law and Human Rights and MPD must carry out continuous outreach regarding PMPJ obligations. This means that this effectiveness is not fulfilled because the rule is known by the Notary.

Thus because Permenkumham No. 9 of 2017 is not understood and implemented, *mutatis mutandis* there is no administrative mechanism that can be reached and can be carried out by every citizen. Normatively, the administrative mechanism in terms of PMPJ is based on Permenkumham No. 9 of 2017 exists and is mandated. It's just that because

it is hindered by existing perceptions and habits, the mechanism does not work as it should and is mandated in regulations.

Based on the assessment test in terms of legal substance, the legal substance, in this case, refers to Article 2 paragraph (2) Permenkumham No. 9 of 2017 it can be concluded that it is not running effectively. This is because there are indicators that are not fulfilled, especially regarding "public knowledge" and "administrative mechanisms that cannot be reached and implemented" in the implementation of PMPJ based on Article 2 paragraph (2) of Permenkumham No. 9 of 2017.

Second, in terms of legal structure. In this aspect, elaboration will be carried out by examining the application and perceptions of legal structures or legal administrators, who in this context are notaries. An analysis of this legal structure is carried out about the performance of the institution and its components in carrying out the task of enforcing the Regulation of the Minister of Law and Human Rights No. 9 of 2017, which includes legal patterns implemented and enforced by the rule of law (legal substance).

The first indicator relates to the knowledge of the Notaries interviewed regarding the obligation to carry out PMPJ based on Article 2 paragraph (2) of Permenkumham No. 9 of 2017. If you look at the results of the interviews, all Notaries in Malang City are aware of these rules. After it was concluded that the Notary in Malang City knew the rules of Article 2 paragraph (2) Permenkumham No. 9 of 2017. Then the next question or indicator is whether the notary knows how to apply these rules. Not all of the answers implemented it, and the percentage of those who implemented the rule did not reach 50%, based on the results of the interview, the Notary did implement the rule but did not do it in its entirety because some were hesitant to implement it in PMPJ. As for the results of the interview with the Notary, it was stated that the Notary's duties were many, and it would be a new burden to carry out PMPJ. Then it was added from the statement from Notary DW that it did not carry out at all because it takes quite a long time to do PMPJ.

Third, is the aspect of Legal Culture. When testing the legal effectiveness of applying Article 2 paragraph (2) Permenkumham No. 9 of 2017, especially in the aspect of legal culture, according to Freadman, 2 (two) components can be tested. The first is the internal legal culture which is the legal culture of law enforcement officials within the legal structure. Second, is the external legal culture, which is the legal culture of the wider community.

Related to the internal legal culture in this case is the collective knowledge of Notaries in Permenkumham No. 9 of 2017. So regarding the internal legal culture, this has been answered in the description and analysis of the previous legal structure aspect. Thus, the description of this legal aspect will focus more on the external legal culture which is the legal culture of the wider community. To find out from the perspective of the legal culture of the community, indicators are used regarding the acknowledgment and assumption that is evenly distributed among the public that the Regulation of the Minister of Law and Human Rights No. 9 of 2017 is indeed effective.

This community's legal culture does not target the wider community or the general public because in this study the general public is not a respondent. Thus, the legal culture of society in this case is more appropriate for Notaries because based on their duties and positions they have the most potential to find out. Based on the data that has been collected, it can be seen that many Notaries in the Greater Malang area do not know the procedures for implementing PMPJ because there is a habit of following UUJN, supervision has never been carried out and sanctions have been imposed on Notaries who do not implement PMPJ. Thus it can be concluded that there is no uniform acknowledgment and assumption among Notaries that they have effective conduct. In terms of legal culture, this effectiveness is not fulfilled.

CONCLUSION

Application of the idea of acknowledging service recipients a notary's power in Malang City is not running effectively. In the results of the Notary's research, it was found that Notaries did not apply PMPJ because they were considered a burden to the Notary. Although the substance of the law has provided rules, the implementation of this article is hampered by several factors, namely the notary factor itself which comes from an internal notary who does not apply it, does not understand the obligation to apply the Principle of Recognizing a Service User (PMPJ) based on Permenkumham No. 9 of 2017, Inadequate facilities, notary's lack of understanding regarding how to control/use the IT system, and there are no strict sanctions from the Ministry of Law and Human Rights against notaries who do not implement PMPJ.

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