

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

Aisyah Putri Elsry¹, Ariawan Gunadi²

^{1,2}Master of Notary, Tarumanagara University, Jakarta

ABSTRACT: The Financial Transaction Reporting and Analysis Center (PPATK) holds one important principle, namely the principle of recognizing service users (PMPJ). The principle of goods and services providers is presented to find out the profile and transactions of service users in carrying out their obligations. This principle also emphasizes the importance of recognizing, knowing and understanding service users. However, in practice, not all notaries carry out this principle properly, as the West Jakarta District Court decision Number 250/Pid.B/2022 is a reflection of a case of violation of the Principle of Determining Service Users by a Notary, who is then involved in a criminal case. This type of research is normative juridical with historical, conceptual and legislative approaches. The results of this study still found many violations by notaries who ignore the principle of recognizing service users or Know Your Customer, either due to negligence, economic pressure, or lack of understanding of regulations. As a result, notaries can be held civilly, criminally, administratively, and ethically liable

KEYWORDS: Accountability; Notary; Service Users; Principle; Supreme Court Decision;

I. INTRODUCTION

The Financial Transaction Reporting and Analysis Center (PPATK) is an institution that coordinates to eradicate and prevent the occurrence of Money Laundering Crimes by analyzing all forms of financial transactions and reporting the results of their analysis to law enforcement. The Financial Transaction Reporting and Analysis Center (PPATK) holds one important principle, namely the Principle of Recognizing Service Users (PMPJ) which is applied to providers of goods and services in order to know profiles and transactions of service users in carrying out their obligations as explained in Article 1 Paragraph (2) of the Regulation of the Center for Financial Transaction Reporting and Analysis Number 7 of 2017 concerning the Application of the Principle of Recognizing Service Users for Other Providers of Goods and/or Services. The application of the Principle of Recognizing Service Users (PMPJ) is a principle which emphasizes the importance of recognizing, knowing and understanding service users. The main activities of the Implementation of Recognizing Service Users (PMPJ), include:

1. Identify service users The identification process usually collects information related to service users such as personal data of service users and what transactions are carried out. Verify service users
2. The verification process is to check the validity of the information that has been obtained and continue to ensure that no transactions are made to carry out other interests or interests that violate the law.
3. Monitoring of service user transactions.

The monitoring process is the process by which the transactions made by the user are supervised services and ensure that the transaction is not tied to money laundering. Not only understanding the background of the service user, but also ensuring that the transactions carried out by both parties are not tied to criminal activities such as money laundering. The application of the Principle of Analyzing Service Users (PMPJ) itself also has several objectives, including:

1. Preventing and inhibiting criminal acts, especially in financial transactions;
2. Conduct transparency in every financial transaction; and
3. Protect the parties involved in financial transactions.¹

In recent years, the implementation of Recognizing Service Users (PMPJ) is considered to be more important which can help deal with financial threats that are increasingly complex. This is because laundering has a great effect on large losses and financial stability in Indonesia. The Financial Transaction Reporting and Analysis Center (PPATK) has made an appeal that there are several professions that are obliged to submit Financial Transactions that are considered suspicious. Where explained in Article 2

¹ Anonim, "Pengawasan Notaris Terhadap Penerapan Prinsip Mengenali Pengguna Jasa", <https://jatim.kemenkumham.go.id/pusat-informasi/artikel/5792-pengawasan-notaris-terhadap-penerapan-prinsip-mengenali-pengguna-jasa>, 2024.

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

Paragraph (1) of the Regulation of the Head of the Financial Transaction Reporting and Analysis Center Number 11 of 2016 concerning Procedures for Submitting Suspicious Financial Transaction Reports for the Profession, Professions that are obliged to submit suspicious Financial Transaction reports to the Financial Transaction Reporting and Analysis Center, namely: ²

1. Advocate;
2. Notary;
3. PPAT;
4. Accountant;
5. Public Accountant; and
6. Financial Planner.

Reporting and Analysis of Suspicious Financial Transactions is not only regulated in the Regulation of the Head of the Financial Transaction Reporting and Analysis Center Number 11 of 2016 concerning Procedures for Submitting Suspicious Financial Transaction Reports for the Profession only, but there are other regulations that call for the Financial Transaction Reporting and Analysis Center to request and obtain information from government agencies and/or Private Institutions from certain professions related to Transactions Suspicious finances. As explained in Article 41 Paragraph (1) Letter a of the Law of the Republic of Indonesia Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes. The explanation between government agencies, private institutions and certain professions, among others:³

"What is meant by "government agencies" includes the Directorate General of Taxes and the Center for Accountant Coaching and Appraisal Services of the Ministry of Finance, the Directorate General of General Legal Administration of the Ministry of Law and Human Rights, the National Land Agency (BPN)." "What is meant by "private institutions" includes advocates' associations, notary associations, and accountant associations."

"What is meant by "certain professions" includes advocates, financial consultants, notaries, land deed making officials, and independent accountants."

Article 1 paragraph (1) of Law of the Republic of Indonesia Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary explains that:⁴

"A notary is a public official who is authorized to make an authentic deed and has other authorities as referred to in this Law or under other laws".

In their daily lives, notaries often have direct contact with clients. This makes the notary directly conduct financial transactions with the client. So a regulation was issued that required a notary to report a financial transaction that was considered suspicious. In reporting and analyzing this financial transaction, of course, the notary submits the client's personal data which is contrary to the notary code of ethics. As explained in Article 16 Paragraph (1) letter f of Law No. 2 of 2014 concerning Amendments to Law No. 30 of 2004 concerning the Position of Notary:

"In carrying out his position, the Notary is obliged to keep secret everything about the Deed he makes and all information obtained for the making of the Deed in accordance with the oath / promise of office, unless the law specifies otherwise".

However, in practice, not all notaries carry out this principle well. The West Jakarta District Court Decision Number 250/Pid.B/2022/PN.Jkt.Brt is a reflection of a case of violation of the Principle of Determining Service Users by a Notary, who is then involved in a criminal case. This research aims to:

1. Explain the legal obligations of notaries in implementing the Principle of Recognizing Service Users.
2. Analyze the form of legal responsibility for violations of these principles. Examine legal considerations in court decisions related to the case under review.
3. Based on the background that the author has described above, the problem of how to hold notaries accountable who do not carry out the principle of recognizing service users is formulated.

II. RESEARCH METHODS

This study uses normative legal methods with a legal approach, a historical approach, and a conceptual approach. Data was obtained through literature studies on primary legal materials such as Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes, Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position, and PPATK Regulation Number 7 of 2017 concerning the Application of the Principle of Recognizing Service Users. In addition, secondary legal materials such as scientific journals, books, and other relevant documents

² Indonesia, *Peraturan Kepala Pusat Pelaporan dan Analisis Transaksi Keuangan Nomor 11 Tahun 2016 Tentang Tata Cara Penyampaian Laporan Transaksi Keuangan Mencurigakan Bagi Profesi*, Pasal 2 Ayat (1).

³ Indonesia, *Undang-Undang Republik Indonesia Nomor 8 Tahun 2010 Tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*, Pasal 41 Ayat (1) Huruf a.

⁴ Indonesia, *Undang-Undang Republik Indonesia Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris*, Pasal 1 Ayat (1).

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

are also used. Data are analyzed qualitatively normatively by examining the content and relationship between legal norms, understanding their historical context, and examining legal doctrines and theories that support arguments in the discussion.

III. RESULTS AND DISCUSSION

A. NOTARY OFFICE

Notary is a state official or public official who can be appointed by the state to carry out state duties in terms of legal services to the community with the aim of achieving legal certainty as an official who makes authentic deeds in civil matters. The existence of a Notary is to serve the public interest. The definition of notary in Article 1 paragraph (1) of Law Number 2 of 2014 concerning the Notary Position states that: "Notary is a public official who is authorized to make authentic deeds and other authorities as referred to in this law."

Notary Is a state official or public official who can be appointed by the state to carry out state duties in terms of legal services to the public with the aim of achieving legal certainty as an official who makes authentic deeds in civil matters. The existence of a Notary is to serve the public interest In addition, Sjaifurrachman and Habib Adjie state that a notary is the only public official who has the authority to make authentic deeds regarding all acts, agreements and stipulations that are required by a general regulation or by the interested party are required to be stated in an authentic deed of certainty of date, keep the deed and give grosse, Copies and copies thereof, all as long as the deed is done by a general regulation, are not assigned or excluded to officials or other persons. A public official is a person who, with his or her service with a public corporation, namely provinces, municipalities and others, autonomous regions, represents these bodies in carrying out the obligations and duties of their office. Notaries as public officials are appointed by the state, also for the benefit of the state.⁵

However, notaries are not employees as referred to in Law Number 43 of 1999 concerning Amendments to Law Number 8 of 1974 concerning Personnel Matters because they do not receive salaries, only receive honorarium or fees from clients, so it can be said that notaries are government employees without receiving salaries from the government, notaries are also retired by the government but do not receive pension funds from the government. government. Based on Article 1868 of the Civil Code, the duties of the notary office are: "An authentic deed is a deed made in the form determined by law by/or in the presence of a public official authorized for that purpose, in the place where the deed is made". According to Wawan Tunggul, the making of an authentic deed is divided into two things, namely:⁶

- a. Which is done because it is needed by interested parties
- b. Because of the order of the law (algemene verordering), it must be stated in an authentic deed.

AW. Voors in Tan Thong Kie, divides the work of a notary into: ⁷

- a. Work ordered by the Law which is also called legal work for example providing certainty of dates, making grosses that have executory powers, giving a statement in a deed that replaces a person's signature and,
- b. Extra-legal work is the work entrusted to him in that position, for example guaranteeing and maintaining the protection of legal certainty. In the sense that everyone has rights and obligations that cannot be reduced or eliminated just like that, either because they are still minors or have a mental illness.⁸

B. Forms of Notary Profession

The state delegated authority to notaries to record and determine as well as legal awareness to the public, especially regarding the legality of documents or the making of authentic deeds.⁹ A deed made by a notary is a perfect authentic deed that can be used as valid evidence in court by holding an authentic deed will provide legal force so that if at any time it is sued by a party who does not have strong evidence, it is likely to be able to break the lawsuit.

⁵ Wawan Tunggul Alam, "Memahami Profesi Hukum", Milenia Populer, Yogyakarta, 2004. Hlm. 102.

Wawan Tunggul Alam, "Memahami Profesi Hukum", Milenia Populer, Yogyakarta, 2004. Hlm. 102.

⁷ Farid Wajdi, dan Suharawadi K. Lubis, "Etika Profesi Hukum (Edisi Revisi)", Sinar Grafika, Jakarta, 2019., Hlm. 78.

⁸ *Ibid*

⁹ Guntur Setiawan, "Impelementasi dalam Birokrasi Pembangunan", Jakarta: Balai Pustaka, 2004, hlm. 39.

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

A. *Civil unions in the notary profession are formed because of the potential for professionalism and work that exists personally and is held by a person, meaning that the relationship between allies and the notary union is bound by the same profession, is individual, the relationship between the allies is only a relationship of friendship, not in a work relationship that is interrelated with responsibility. According to the profession and its authority, the form of the notary profession can be divided into two main groups are:*¹⁰

Notaries as a public official have the authority or authority of attribution obtained and given from the UUJN and not from other institutions such as the Ministry of Law and Human Rights. The authority that belongs to the notary is regulated in Article 15 of the UUJN divided into 3, namely general authority, special authority, and authority that will be determined later.¹¹

The general authority of a notary is regulated in Article 15 of the UUJN which states that:¹² "The notary is authorized to make an authentic deed regarding all acts, agreements, and stipulations that are required by laws and regulations and/or required by the interested party to be stated in an authentic deed, guarantee the certainty of the date of making the deed, keep the deed, give grosse, copy and quotation, all of which as long as the making of the deeds is not assigned or excluded to another official or other person determined by law".

The special authority of a notary is regulated in Article 15 paragraph 2 which states that: "In addition to the authority as referred to in paragraph (1), notaries are also authorized:

- a) Authenticate signatures and set the date of the letter under hand by registering it in a special book;
- b) To book the papers under hand by registering them in a special book;
- c) Make a copy of the original letters under hand in the form of a copy containing the description as written and described in the letter concerned;
- d) Verify the compatibility of the photocopy with the original letter;
- e) Providing legal counseling in relation to the making of deeds;
- f) Making deeds related to planting, and making auction minutes.

Based on the explanation of Article 15 of the UUJN above, the Notary has the authority to make an authentic deed related to all acts, agreements and provisions required by law. The authority to make this authentic deed means that the notary's duty is to formulate the wishes of the parties outlined in the authentic deed, taking into account the applicable legal rules.¹³ Notaries also have special authority as stipulated in Article 51 of the UUJN, namely to correct writing errors or typos contained in the Minuta of the deed that has been signed, by making a Minutes of Correction and Copies of the Minutes of Correction and are obliged to convey it to the parties.

Basically, the Notary is not responsible for the content of the deed made in front of him, because the content of the deed is based on the agreement and will desired by the parties. So that the Notary in this case, is only responsible for the form of the formal authentic deed, as stipulated in the law. A Notary can be held legally liable based on the claim of unlawful acts. In terms of responsibility in making an authentic deed, if the deed made by the notary concerned is not in accordance with the provisions for making a notary deed in the Notary Position Law, then, the Notary concerned can be held liable to pay compensation.¹⁴

C. Principles of Recognizing Service Users¹⁵

Notaries as one of the reporting parties as referred to in Government Regulation Number 43 of 2015 concerning Reporting Parties in the Prevention and Eradication of Money Laundering Crimes, notaries are obliged to apply the principle of recognizing service users. The principle of recognizing Service Users as referred to at least contains: identification of Service Users; verification of Service Users; and monitoring of Service User Transactions.¹⁶

The application of the Principle of recognizing service users (PMPJ) cannot be said to be familiar to notaries, in the Law on the position of notary there is no or does not recognize the meaning of recognizing notary service users, PMPJ has just been used after the existence of the regulation of the Minister of Law and Human Rights Number 9 of 2017 concerning the application

¹⁰ *Ibid*

¹¹ Djoni S. Gazali dan Rachmadi Usman, 2012, *"Hukum Perbankan"*, Sinar Grafika, Jakarta, hlm. 27.

¹² Brilian Pratama, Happy Warsito, Herman Adriansyah, *"Prinsip Kehati-Hatian Dalam Membuat Akta Oleh Notaris"*, Jurnal Repertorium Hukum Kenotariatan, Magister Kenotariatan, Fakultas Hukum Universitas Sriwijaya, 2 Mei 2022, Hlm. 25.

¹³ Habib Adjie, *"Kebatalan Dan Pembatalan Akta Notaris, Refika Aditama"*, Surabaya, 2010, Hlm. 19.

¹⁴ Hartanti Suhalihandari dan Nisya Rifani, *"Prinsip – Prinsip Dasar Profesi Notaris"* Dunia Cerdas, Jakarta Timur, 2013 Hlm. 88.

¹⁵ Ismail, Ermanto Fahamsyah, I Gede Widhiana Suarda, *"Kewajiban Notaris Mengenali Pengguna Jasa Dalam Upaya Pencegahan Tindak Pidana Pencucian Uang Oleh Korporasi"*, Syntax Idea: p-ISSN: 2684-6853 e-ISSN: 2684-883X Vol. 3, No.10, Oktober 2021, Hlm. 3.

¹⁶ Ridho Ilham, Elwi Danil, Yoserwan, *"Penerapan Prinsip Mengenali Pengguna Jasa Oleh Notaris Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang"*, Jurnal Unes Swara Justicia, Volume 3, Issue 4, January 2020, Hlm. 397.

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

of the Principle of Recognizing Service Users for Notaries, namely in the regulation providing restriction to service users based on Article 1 paragraph (3) which states that: "Service User is any person who uses the services of a Notary." Previously, the term service user was also found in Law Number 8 of 2010 concerning the prevention and eradication of money laundering crimes was the party who used the services of the reporting party.

Based on the results of research published by the Financial Transaction Analysis Reporting Center (PPATK), it is known that a person who has the positions of Advocate, Notary and PPAT, Accountant and Financial Planner is actually vulnerable to being used by money laundering criminals to hide and disguise the origin of wealth that is the result of crime by taking refuge behind the legal rules of each profession mentioned above. Second, the reporting obligation by professional actors has been implemented in several countries and has turned out to have a positive impact on the prevention and eradication of money laundering crimes. Third, to provide legal protection to the Reporting Party, in this case the Notaries from lawsuits.¹⁷ The application of the principle of recognizing the service users of Notaries in Knowing the Witnesses is a dilemmatic position for notaries. Because according to Article 4 concerning the oath and promise of the Notary and Article 16 paragraph (1) letter (f) of the Law on the Notary Position obliges the Notary to maintain the confidentiality of everything regarding the deed he makes and all information obtained for the making of the deed in accordance with the oath of office unless the Law stipulates otherwise. Notaries do not have the competence to recognize the audience in detail, for example what their previous work is, whether they have held political positions, where their wealth comes from, unless the audience has been publicly informed that the person concerned is under investigation for corruption, terrorism and narcotics crimes.

In the implementation of PMPJ, the availability of customer or service user data, track records and various transactions carried out, as well as the administration or administration of good information documents, can be used to conduct various studies (research) including in research on the development of the Reporting Party's industrial business. Data accuracy and good data processing methods will produce important materials for management in accurate and professional decision-making. The policy regarding the implementation of PMPJ at least contains:¹⁸

- a. Identification of Service Users
- b. Verification of Service Users; and
- c. Monitoring of Service User Transactions

D. JURIDICAL BASIS OF THE PRINCIPLE OF RECOGNIZING SERVICE USERS

The principle of recognizing service users or internationally known as *Know Your Customer (KYC)* is an important principle in the modern legal and financial system, which has juridical roots in various laws and regulations in Indonesia. This principle basically aims to ensure that every financial services institution, both banking and non-banking, has adequate information regarding the identity and risk profile of its service users. This is very important in order to prevent and eradicate the criminal acts of money laundering, terrorism financing, and various other forms of abuse of the financial system that can harm national economic stability and damage the integrity of the financial system.¹⁹

In Indonesia, the main juridical basis of the principle of recognizing service users can be found in Law Number 8 of 2010 concerning the Prevention and Eradication of Money Laundering Crimes (TPPU). In this law, financial institutions and other providers of goods and/or services are required to apply the principle of prudence and recognize the identity of the parties involved in financial transactions. In Articles 18 and 19, it is explicitly stated that financial service providers are obliged to apply the principle of recognizing service users, including identifying, verifying, and monitoring transaction activities to ensure that the transaction does not contain elements of money laundering. Not only limited to the Anti-Money Laundering Law, the principle of KYC is also strengthened through Bank Indonesia Regulations and the Financial Services Authority (OJK). For example, OJK Regulation Number 12/POJK.01/2017 concerning the Implementation of the Anti-Money Laundering and Terrorism Financing Prevention Program for Financial Services Institutions has established guidelines that must be carried out by financial service institutions in implementing the principle of recognizing service users. This regulation contains the obligation for financial institutions to conduct initial identification of customers, verify the identity data using official documents, and conduct continuous monitoring of transactions carried out by the service users.

In addition, the principle of recognizing service users also has a juridical basis in civil law and agreements. According to Article 1320 of the Civil Code (KUHPerdata), the conditions for the validity of an agreement include the agreement of the parties and the ability to make an agreement. Therefore, it is important for the service provider to clearly recognize who the service users

¹⁷ Ibid

¹⁸ Ridho Ilham, Elwi Danil, Yoserwan, "Penerapan Prinsip Mengenali Pengguna Jasa Oleh Notaris Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang", Jurnal Unes Swara Justicia, Volume 3, Issue 4, January 2020, Hlm. 397.

¹⁹ Marthinus Mesak Mandala, "Prinsip Mengenali Pengguna Jasa Bagi Notaris Menurut Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 9 Tahun 2017," *Officium Notarium* 1, no. 2 (2022): 317–326, <https://journal.uin.ac.id/JON/article/view/19707>

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

are, whether they are legally capable, and whether they are really authorized to make certain legal commitments. Thus, the principle of KYC not only serves to prevent crime, but also protects legal certainty in transactions. Another foundation that strengthens the principle of recognizing service users is Law Number 21 of 2008 concerning Sharia Banking, which also emphasizes the importance of transparency, fairness, and accountability in every transaction. In it, the principle of recognizing service users is an important part of the prudential principle that must be held by every Islamic bank. This shows that the principle of recognizing service users is not only relevant in conventional banking, but also in the Islamic financial system which is based on moral values and Islamic law.

The principle of recognising service users is also part of international standards set by organisations such as the Financial Action Task Force (FATF), which has set out recommendations that member states must follow in order to prevent money laundering and terrorist financing. Indonesia as part of the international community has adopted these principles into its legal system through various laws and regulations, including in the Anti-Corruption Law and various implementing regulations.

In today's digital era, the biggest challenge in applying the principle of recognizing service users is the emergence of electronic transactions that are not face-to-face. Online transactions, digital account opening, and financial technology (*fintech*) require an electronic KYC or *e-KYC method*. Therefore, the government through the OJK has encouraged the implementation of e-KYC while still paying attention to the principles of identity validity, data security, and ease of access. This shows that the principle of recognizing service users continues to evolve along with changes in technology and societal needs. The application of the principle of recognizing service users is not only a normative legal obligation, but also reflects the social and ethical responsibility of service providers. In a globally interconnected financial world, the actions of one entity can have a far-reaching impact on the financial system as a whole. Therefore, the implementation of this principle must be carried out with the awareness that every information collected has strategic value in maintaining the integrity and stability of the national economy.²⁰ In closing, it can be said that the juridical foundation of the principle of recognizing service users in Indonesia is quite strong and comprehensive. Various laws and regulations have provided a clear legal framework, although there is still a need for improved implementation and oversight. This principle should not only be considered as a formal obligation, but as the main pillar in realizing a healthy, transparent, and responsible financial system. By effectively implementing KYC principles, Indonesia can become part of a global community committed to the eradication of financial crime and the protection of economic integrity.

E. LEGAL ASPECTS OF NOTARY LIABILITY

The first legal aspect that is often discussed is the notary's civil liability. In this condition, a notary can be sued civilly if the mistake committed by him causes losses to other parties. For example, when the notary makes a deed of sale and purchase of land that turns out to be invalid because the certificate is fake or the status of the land is in dispute, and the notary is negligent in conducting an in-depth examination of the legality of the document. If it is proven that the losses suffered by one of the parties arise due to negligence or intentionality of the notary, then the notary can be asked to compensate the loss based on Article 1365 of the Civil Code on Unlawful Acts. However, not all notary mistakes can be immediately held accountable. In practice, it must be proven that there is an element of real negligence, a cause-and-effect relationship between the notary's actions and the loss, as well as that the notary acts beyond the limits of his authority. Sometimes notaries only carry out their duties in accordance with the information and documents provided by the parties, so the full responsibility lies with the service user. However, this does not mean that notaries can take refuge behind the reasons of formality. Notaries are still obliged to verify and check carefully because they have a moral and legal responsibility to prevent fraud or legal crimes through the deed they make.²¹

Meanwhile, notary criminal liability arises if the notary is proven to have deliberately committed acts that violate criminal law, such as falsifying documents, hiding legal facts, or participating in the fabrication of illegal transactions. In some cases, notaries are entangled in cases of corruption, money laundering, or conspiracy in civil and economic crimes because they help pass illegal transactions through deeds they make. In this case, notaries can be charged with general criminal articles as stipulated in the Criminal Code (KUHP) or in special laws such as the Corruption Law and the Money Laundering Law.

The Notary Supervisory Council, which consists of elements of the Ministry of Law and Human Rights, notary elements, and academics, has the authority to examine public reports and impose sanctions on notaries who are proven to have violated their office obligations. The process usually begins with a public report or audit from the regional office of the Ministry of Law and Human Rights. If it is proven that there is a violation, the Panel can provide recommendations for sanctions to the Minister of Law

²⁰ Cindy Oktaviany, Muhammad Hadin Muhjad, dan Diana Haiti, "Asas Mengenali Pengguna Jasa Notaris Dikaitkan dengan Tanggung Jawab Jabatan Notaris," *Banua Law Review* 1, no. 1 (2020): 1–15, <https://www.balrev.ulm.ac.id/index.php/balrev/article/view/35>

²¹ Gabriel Gloria dan Tjempaka Rusdam, "Pertanggungjawaban Notaris terhadap Akta yang Dibuatnya Tanpa Menerapkan Prinsip Kehati-Hatian: (Studi Putusan Pengadilan Tinggi Nomor 27/Pid/2019/PT.DPS)," *Jurnal Pendidikan dan Konseling (JPDK)* 5, no. 1 (2023): 1–15, <https://journal.universitaspahlawan.ac.id/index.php/jpdk/article/view/11457>

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

and Human Rights. This shows that the administrative aspect is not trivial, and is proof that notaries cannot work arbitrarily or carelessly in exercising their authority.

In some cases, the notary's liability can even be dual or simultaneous, namely when one act causes legal consequences in several areas at once. For example, mistakes in making grant deeds that turn out to be used to cover the proceeds of corruption, then notaries can be subject to criminal liability for participating in crimes, civil liability for harming legal parties, and also administrative liability for violating the code of ethics and the Notary Position Law. Consequences like this show that the role of notaries is very important and at the same time very vulnerable to legal excesses if not carried out with high integrity and prudence.

Not only that, notaries are also subject to ethical accountability as stipulated in the notary code of ethics. In this case, the Notary Honorary Council (MKN) has a role to examine ethical violations and provide moral sanctions or action recommendations to the government. The code of ethics regulates matters relating to the professional attitude, integrity, and independence of a notary. If a notary, for example, is proven to be on the side of one of the parties in making a deed, receiving gratuities, or using his position for personal gain, then he has violated professional ethics. Although this ethical violation does not always lead to legal proceedings, it greatly affects the reputation and sustainability of the notary profession itself.

The legal aspect of notary liability also cannot be separated from the principle of good faith inherent in every legal act. If a notary acts with good intentions, honestly, and in accordance with legal procedures, then he can get legal protection even if the deed made causes a dispute. However, on the other hand, if the notary is proven to have acted with hidden motives, ignored the truth, or even deliberately misled the parties, then the principle of good faith can no longer be used as a defense. Therefore, this principle is a moral limit as well as a legal basis in assessing whether a notary should be held accountable or not.²²

F. SANCTIONS AND LEGAL CONSEQUENCES FOR NOTARIES

Sanctions against notaries can come from various legal sources, both administrative sanctions, civil sanctions, and criminal sanctions. The Law on Notary Positions (UUJN) provides a clear legal basis regarding supervision and the imposition of sanctions against notaries who commit violations. In its implementation, the Notary Supervisory Council (MPN) has the authority to conduct an examination of alleged violations of the code of ethics and laws and regulations. This examination process is carried out through a complaint mechanism that can be filed by the public or parties who feel aggrieved.

Administrative sanctions are one of the most common forms of legal consequences imposed on notaries. This sanction can be in the form of verbal reprimands, written reprimands, temporary dismissals, and permanent dismissals. The provision of this sanction is certainly adjusted to the level of error and the impact of the violation committed by the notary. In practice, the provision of administrative sanctions aims to provide a deterrent effect and encourage notaries to remain compliant with the provisions of the law and the code of ethics.

In addition to administrative sanctions, notaries can also be subject to civil sanctions if proven to have committed unlawful acts or defaults in carrying out their duties. For example, when the notary is negligent in making a deed that turns out to be detrimental to one of the parties, the notary can be sued civilly to pay compensation. This lawsuit is generally carried out by parties who feel aggrieved on the basis of the notary's professional error. In this case, civil liability places the notary as a legal subject who can be held personally accountable. The most severe legal consequences for notaries are criminal sanctions. Criminal sanctions can be imposed if the notary commits a criminal act in carrying out his duties, such as forging a deed, providing false information, or assisting certain parties to commit unlawful acts. In this kind of case, notaries have not only violated professional ethics, but have also harmed the applicable criminal law. Therefore, the criminal law process can run in parallel with the process at the Notary Supervisory Council and the Notary Honorary Council.²³ One example of a case that often occurs is the forgery of authentic deeds. In Indonesian law, an authentic deed has very strong evidentiary power. However, if the notary deliberately or due to his negligence makes a deed that turns out to be not in accordance with the actual circumstances, then it can be categorized as a criminal act of forgery. In Article 263 of the Criminal Code, falsification of documents can be threatened with imprisonment of up to six years. Notaries in this case can be held criminally liable and can lose the right to carry out their profession.

In addition to the regulatory aspect, it is also important to build a high ethical awareness in every notary. Integrity and honesty are not only about obeying the rules, but also moral awareness that the notary profession is the guardian of justice in legal documents. The slightest violation can have a wide impact, especially when it comes to a person's property rights, inheritance, or legal status. Therefore, sanctions are not only an instrument of punishment, but also a reminder that notary responsibility is inherent in public

²² Eva Susanti dan Dinda Putri Ramadhani, "Aspek Pertanggungjawaban Notaris terhadap Klien yang Dirugikan dalam Pembuatan Akta," *Jurnal Hukum Lex Generalis* 3, no. 10 (2022): 1053–1065, <https://jurnal.untagsmg.ac.id/index.php/lex/article/view/13518>

²³ Sandi Wahyudi dan Denny Suwondo, "Sanksi Hukum Terhadap Notaris yang Tidak Menjalankan Kewajiban Prinsip Mengenali Pengguna Jasa Berdasarkan UU No. 8 Tahun 2010," *Jurnal Wawasan Yuridika* 7, no. 1 (2023): 55–68, <https://jurnal.uns.ac.id/wawasanyauridika/article/view/72138>

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

trust. In many cases, the legal consequences for the notary also involve third parties, such as land officials, banks, or interested parties in the deed.

IV. CONCLUSIONS

The application of the principle of identifying service users (KYC) by notaries is one of the important pillars in maintaining legal integrity and preventing the misuse of notary services for the benefit of financial crimes such as money laundering and terrorism financing. The strong legal foundation of various laws and regulations has provided a clear juridical basis for notaries to implement this principle systematically and responsibly. The implementation of this principle is not only a formal obligation, but a form of notary's contribution in maintaining the stability of the financial system and public trust in the law. However, in practice, there are still many violations by notaries who ignore the KYC principle, either due to negligence, economic pressure, or lack of understanding of regulations. As a result, notaries can be held accountable civilly, criminally, administratively, and ethically. Therefore, integrity, professionalism, and compliance with the principle of recognizing service users must be the main commitment of every notary in carrying out his function as a guardian of legality and legal justice in the community.

REFERENCES

a. Book

- 1) Djoni S. Gazali dan Rachmadi Usman. *Hukum Perbankan*. Jakarta: Sinar Grafika, 2012.
- 2) Farid Wajdi dan Suharawadi K. Lubis. *Etika Profesi Hukum* (Edisi Revisi). Jakarta: Sinar Grafika, 2019.
- 3) Guntur Setiawan. *Implementasi dalam Birokrasi Pembangunan*. Jakarta: Balai Pustaka, 2004.
- 4) Habib Adjie. *Kebatalan dan Pembatalan Akta Notaris*. Surabaya: Refika Aditama, 2010.
- 5) Wawan Tunggal Alam. *Memahami Profesi Hukum*. Yogyakarta: Milenia Populer, 2004.

b. Journals/Proceedings

- 1) Azmi Siradjuddin, "Analisis Implementasi Hukum Dalam Perspektif Perilaku Masyarakat", Jurnal IAIN Metro.
- 2) Ismail, Ermanto Fahamsyah, I Gede Widhiana Suarda, "Kewajiban Notaris Mengenali Pengguna Jasa Dalam Upaya Pencegahan Tindak Pidana Pencucian Uang Oleh Korporasi", Syntax Idea: p-ISSN: 2684-6853 e-ISSN: 2684-883X Vol. 3, No.10, Oktober 2021.
- 3) Mukti Fajar dan Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, (Yogyakarta: Pustaka Pelajar, 2010) hal. 34.
- 4) Ridho Ilham, Elwi Danil, Yoserwan, "Penerapan Prinsip Mengenali Pengguna Jasa Oleh Notaris Dalam Pencegahan Dan Pemberantasan Tindak Pidana Pencucian Uang", Jurnal Unes Swara Justicia, Volume 3, Issue 4, January 2020.

c. Laws and Regulations

- 1) Indonesia. *Peraturan Pusat Pelaporan dan Analisis Transaksi Keuangan Nomor 7 Tahun 2017 Tentang Penerapan Prinsip Mengenali Pengguna Jasa Bagi Penyedia Barang Dan/Atau Jasa Lain*.
- 2) Indonesia. *Undang-Undang Republik Indonesia Nomor 8 Tahun 2010 Tentang Pencegahan dan Pemberantasan Tindak Pidana Pencucian Uang*.
- 3) Indonesia, *Undang-Undang Republik Indonesia Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 Tentang Jabatan Notaris*.

d. Website

- 1) Anonim, 2023, "Sambutan Kepala PPATK".
<https://www.ppatk.go.id/home/menu/2/profile.html#:~:text=Para%20pengunjung%20yang%20budiman%2C,pidana%20pencucian%20uang%20di%20Indonesia>, 2023.
- 2) Cindy Oktaviany, Muhammad Hadin Muhjad, dan Diana Haiti, "Asas Mengenali Pengguna Jasa Notaris Dikaitkan dengan Tanggung Jawab Jabatan Notaris," Banua Law Review 1, no. 1 (2020): 1–15,
<https://www.balrev.ulm.ac.id/index.php/balrev/article/view/35>
- 3) Eva Susanti dan Dinda Putri Ramadhani, "Aspek Pertanggungjawaban Notaris terhadap Klien yang Dirugikan dalam Pembuatan Akta," Jurnal Hukum Lex Generalis 3, no. 10 (2022): 1053–1065,
<https://jurnal.untagsmg.ac.id/index.php/lex/article/view/13518>
- 4) Marthinus Mesak Mandala, "Prinsip Mengenali Pengguna Jasa Bagi Notaris Menurut Peraturan Menteri Hukum dan Hak Asasi Manusia Nomor 9 Tahun 2017," Officium Notarium 1, no. 2 (2022): 317–326,
<https://journal.uui.ac.id/JON/article/view/19707>

Notary Liability in the Practice of the Principle of Recognizing Service Users: An Analysis of the Supreme Court Decision No. 250/Pid. B/2022

- 5) Muammar Khadafi, Iskandar Muda, dan Irwan Santosa, “Implementasi Hukum Prinsip Mengenali Pengguna Jasa Dilaksanakan Notaris Terhadap Pelaporan Transaksi Keuangan Mencurigakan Melalui Aplikasi Go-AML Berdasarkan Peraturan PPATK Nomor 3 Tahun 2021,” *Jurnal Hukum dan HAM Wara Sains* 2, no. 9 (2023): 1–15, <https://wnj.westscience-press.com/index.php/jhhws/article/view/614>
- 6) Rudy Hartono, “Sanksi Terhadap Notaris yang Melanggar Kode Etik Jabatan dalam Menjalankan Tugas,” *Jurnal Ius Constituendum* 5, no. 2 (2020): 143–157, <https://ejournal3.undip.ac.id/index.php/ius/article/view/28953>
- 7) Sandi Wahyudi dan Denny Suwondo, “Sanksi Hukum Terhadap Notaris yang Tidak Menjalankan Kewajiban Prinsip Mengenali Pengguna Jasa Berdasarkan UU No. 8 Tahun 2010,” *Jurnal Wawasan Yuridika* 7, no. 1 (2023): 55–68, <https://jurnal.uns.ac.id/wawasanyuridika/article/view/72138>
- 8) TGS Indonesia Team, 2023, “Prinsip Mengenali Pengguna Jasa dan Langkah-Langkah Penerapannya”, <https://au-partners.com/id/blog/prinsip-mengenali-pengguna-jasa-dan-langkah-langkah-penerapannya>, 05 Oktober 2023.



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