

## APPLICATION OF THE PRECAUTIONARY PRINCIPLE IN THE LEGALIZATION OF A DEED UNDER THE HAND BY A NOTARY IN ORDER TO INCREASE LEGAL CERTAINTY

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### Abstract

Notaries have the authority to make authentic deeds, apart from that, notaries also have other authorities, including legalization. In practice, notaries exercise their authority to carry out legalization, there is still a discrepancy between regulations and implementation which is caused by the minimal and asynchronous various legal arrangements regarding legalization, thus causing a lack of legal certainty regarding the notary's authority to carry out legalization. So this research discusses how to apply the precautionary principle and the legal consequences if a notary ignores the precautionary principle against a notary's authority in carrying out legalization. The purpose of this research is to analyze the application of the precautionary principle. This study uses a normative juridical approach and uses secondary data. The results of this study are that the Notary is obliged to apply the precautionary principle by Recognizing the Identity of the Appearing Person, carefully reading the Deed to be Legalized, fulfilling Legalization techniques, and keeping records of the legalization process. The notary also needs to ensure that the parties understand the essence and legal consequences of the deed legalized by him. As for the legal consequences if the notary ignores the precautionary principle, namely the deed that is being legalized can be declared null and void by law or can be canceled which is stated by the court. The notary can also be sued for legal action by the injured party in the form of a lawsuit through the court and submit a report to the Regional Supervisory Board so that the notary concerned is subject to administrative sanctions.

**Keywords:** Prudence, Legalization, Underhand Deed, Notary, dan Legal Certainty

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### Introduction

Indonesia is a *rechtstaat*, a term used to describe a state in which the rule of law is paramount. This is evidenced by the 1945 Constitution, article 1, paragraph (3), which states, "The State of Indonesia is a *rechtstaat*." A *rechtstaat* is a state in which the supremacy of law is guaranteed and reflected in the enforcement of the law and justice (equality) based on the 1945 Constitution of the Republic of Indonesia. (Tutik, 2008). The purpose of the rule of law is to ensure that all actions and implementations undertaken by government agencies and officials are based on and in accordance with the law. In a state of law, written rules are established by authorized agencies and officials to regulate the behavior of the community, and they are enforceable and obligatory. Problems in the rule of law can be studied by examining the written rules and the sanctions associated with their violation. In essence, the rule of law establishes the law as the fundamental basis for the administration of the state, government, and society. In essence, law is a compilation of regulations, whether statutory or customary, that a country or society deems binding upon its citizens. (Ali, 2015).

In social life, the relationship between people and people will always entail the existence of rights and obligations, which are established through agreements, both

written and unwritten. However, in practice, the implementation of these agreements often results in violations that give rise to legal proceedings. Similarly, deeds are utilized to document legal events and are signed by the relevant parties. A deed is a unique written document that serves as evidence of a transaction. Deeds can be classified into two main categories: authentic deeds and underhand deeds. (Andasasmita, 1981). The explanation of the deed under the hand is stated in Article 1874 of the Civil Code, which reads:

*“Documents considered to be writings under the hand include deeds signed under the hand, letters, lists, correspondence pertaining to domestic affairs, and other writings created without the involvement of a public official..”*

In this provision, it is explained that an underhand deed is signed underhand, which means that it is made by the parties themselves without the intermediary of a public official, in this case by a Notary. This means that the underhand deed represents the interests of the parties directly. Even so, an underhand deed can still be authorized directly by a notary so that it is declared a deed that can be formally accounted for.

Notary is one of the legal professions that has the duty and authority to provide legal services and consultations to people who need them. The definition of Notary is stated in article 1 number 1 of the Notary Position Law, which reads:

*“A notary is a public official who is authorized to authenticate deeds and perform other duties as specified in this legislation or as defined by other legal codes.”*

In accordance with the aforementioned provisions, the services and consultations that may be provided by notaries are limited to the authentication of deeds and other authorities as defined in the Notary Position Law and other pertinent legislation.

The authority of a notary is explicitly delineated in Article 15 of Law Number 30 of 2004, as amended by Law Number 2 of 2014 concerning Notary Position, which states the following:

*“(1) Notaries are authorized to make authentic Deeds concerning all acts, agreements, and stipulations required by laws and regulations and/or desired by the parties concerned to be stated in an authentic Deed, to guarantee the certainty of the date of making the Deed, to keep the Deed, to provide a grosse, copy and quotation of the Deed, all insofar as the making of the Deed is not also assigned or excluded to other officials or other persons stipulated by law.*

*(2) In addition to the authority as referred to in paragraph (1), a Notary is also authorized to:*

- a. to certify signatures and determine the certainty of the date of letters under hands by registering them in a special book;*
- b. to record a letter under the hand by registering it in a special book;*
- c. to make a copy of the original letter under the hand in the form of a copy containing the description as written and described in the letter concerned;*
- d. attesting the suitability of the photocopy with the original letter;*
- e. provide legal counseling in connection with the making of a Deed;*
- f. make a Deed relating to land; or*

*g. make a Deed of minutes of auction.*

*(3) In addition to the authorities as referred to in paragraphs (1) and (2), Notaries have other authorities as stipulated in laws and regulations..”*

As for one of the notary authorities listed in the above provisions, namely the authority to certify signatures and determine the certainty of the date of letters under the hand by registering in a special book or commonly referred to as legalization listed in article 15 paragraph (2) letter a. The complete Legalization arrangement is regulated in article 1874 paragraph (2) of the Civil Code, which reads :

*“With the signing of a writing under the hand is equated a thumbprint, affixed with a dated statement of a notary or another employee appointed by law from which it appears that he knows the affixer of the thumbprint, or that this person has been introduced to him, that the content of the deed has been explained to him, and that afterwards the thumbprint was affixed in the presence of this employee. This official must record the writing”.*

These provisions become the basis and basis for the procedures for the implementation of legalization by Notary.

In carrying out legalization, it is important for notaries to apply the principle of prudence. Prudence comes from the word caution (prudent). This principle is indirectly based on the obligation of careful ownership stated in letter a of article 16 paragraph (1) of the Notary Public Office Law. According to the Big Indonesian Dictionary, *saksama* is the nature of being thorough, careful, precise, and precise [ Big Indonesian Dictionary]. This trait is needed considering the many legal problems with agreements caused by unlawful causa and the incapacity of the parties in carrying out the agreement. Likewise, in legalization, accuracy is needed so that the deed being legalized does not cause legal problems later. Therefore, the notary must act more carefully and thoroughly in examining the documents and information of the parties who want to legalize. He must examine all the facts relevant to what he gets, the completeness and validity of the evidence needed and the statements of the confrontants obtained outside or explained in the deed he wants to legalize, in order to increase legal certainty and not cause legal problems with the deed he makes in the future.

Legal certainty is an important goal to achieve in order to create good law. Legal certainty is a principle in a state of law that prioritizes the basis of legislation, compliance and justice in every state administration policy. In this case, the meaning of administration covers a wide range including notaries in exercising their authority must prioritize the basis of legislation, compliance, and justice. To achieve legal certainty, positive laws that regulate human interests in society must always be obeyed. Therefore, the precautionary principle is important to be applied to achieve legal certainty over underhand deeds legalized by a Notary.

However, in its implementation, there is still a mismatch between regulation and implementation. This is due to the minimal and unsynchronized various arrangements regarding legalization which causes a lack of legal certainty regarding the authority of

notaries to legalize. In the implementation of legalization, notaries base their legal actions on the Notary Office Law which is a *lex specialis* of the Civil Code, but there are still discrepancies between the two sources of law. For example, there is no obligation for the Notary to read out the deed under the hand that is to be legalized. The deed reading provisions contained in Article 16 paragraph (1) letter m and paragraph (7) of the Notary Position Law implicitly only regulate the reading of deeds for deeds made by Notaries. Whereas Article 1874 of the Civil Code requires a reading by a notary based on a grammatical interpretation of the words “that the deed has been explained to that person”, the reading of the deed is important as an application of the precautionary principle to increase legal certainty by the Notary. In practice, the Notary may not read the deed to the parties and ignore the precautionary principle. In addition, it is necessary to emphasize the limitations on the extent to which the notary is responsible for the underhand deed that is legalized, so that the Notary is not responsible for legalizing and the prudential principle he holds is still well maintained.

### Research Problems

In relation to the application of the precautionary principle to the notary's authority to legalize, the author is interested in conducting a discussion with the following problem formulation:

1. How is the application of the precautionary principle to the notary's authority to legalize?
2. What are the legal consequences for notaries who ignore the precautionary principle of their authority to legalize?

### Research Method

This research method was conducted using normative juridical methods, namely library legal research conducted by examining library materials or secondary data only. (Soemitro, 1985). The normative juridical method is also complemented by interviews. The approach used in this research is a statutory approach, namely a Statue Approach that examines various legal rules that are the focus of a study and a conceptual approach, which is a type of approach in legal research that provides a point of view to analyze the resolution of problems in legal research from the aspect of legal concepts that underlie, or can even be seen from the values contained in the norming of a regulation in relation to the concepts used.

The data used is secondary data sourced from: a. Primary Legal Entities, namely the rule of law that is formed and / or made officially by an institution and / or government bodies for the sake of its enforcement will be pursued based on coercion carried out officially by the state apparatus, in this writing including: the Notary Position Law and the Notary Position Code of Ethics. B. Secondary Legal Bodies, namely all information about laws that apply or have been applicable in a country, but formally cannot be categorized as positive law, in this study, namely various scientific literature and journals. C. Tertiary Legal Bodies, namely legal materials that provide guidance or explanation of primary legal materials and secondary legal materials, in this study, namely the Big Indonesian Dictionary.

The technique of collecting legal materials related to the research is carried out by content analysis obtained from secondary legal materials (Soerjono, 2004). The data will be analyzed descriptively qualitative.

## Discussion

### A. Application of the precautionary principle to the notary's authority to perform legalization

The position of Notary is a very noble position. According to Tan Thong Kie, a Notary has a position as a functionary in society until now it is still respected. Notary can be considered as an official who can provide reliable advice. Everything he writes down and determines is true, because he is a strong document maker in the legal process (Kie, 444). Therefore, people who hold these positions are required to be professional by carrying out duties based on the code of ethics and applicable laws and regulations and prioritizing expertise in carrying out their duties. The information provided by him is considered reliable and justified and his signature is trusted and can provide assurance and strong evidence of the products made (Manuaba, et al. 2018). The application of the characteristics of honesty, thoroughness, independence, impartiality, and safeguarding the interests of the parties involved are the basis for the attitudes that must be owned and applied by notaries in carrying out their positions.

However, in reality, these characteristics are not fully implemented by notaries, so there are often legal problems with the products made by them. In the authority of a notary to legalize a deed under the hand, the notary may show his/her partiality to one of the parties by ignoring the characteristics and principles stated in the Notary Office Law and the Code of Ethics of the Notary Office.

The inconsistency between the Civil Code and the Notary Public Office Law, which is the basis for notarial provisions, can be a loophole for notaries to ignore the principle of prudence. The status of the Notary Position Law as a *lex specialis* for all provisions governing notaries does not fully regulate the procedures for legalization, which also does not regulate the obligation for notaries to read the deed when legalizing. This loophole can lead to legal uncertainty and an excuse for notaries not to read out the deed and ignore the principle of prudence. So it is important for notaries to stick to Article 1874 of the Civil Code which is also a legal source for notaries in legalizing, so that the principle of prudence can be properly maintained by notaries.

In some cases, notaries are summoned by judges in court either to give testimony or to become co-defendants, which is caused by the lack of caution in notaries doing their work, including legalization. This can be anticipated if the notary applies the precautionary principle very carefully.

The principle of prudence is important to be applied in notaries carrying out their duties and authorities. This is due to the notary's role as a public official whose authority is to increase legal certainty. So it is only natural that notaries must apply

the precautionary principle in order to achieve legal certainty over products made by notaries.

The application of the precautionary principle in conducting legalization includes:

1. Recognizing the Identity of the Visitor

Before legalizing a deed under the hand, the notary is confronted by the parties who want to legalize. Of course, these parties are the parties whose names are included in the deed to be legalized later. So before legalizing, the notary must check the identity of the parties by matching the identity listed in the identity card such as KTP, KK, or Passport with the identity listed in the deed. The notary is also obliged to match the photos listed in the identity card with the parties who want to legalize to prevent identity forgery of the legalized deed.

2. Carefully read the Deed Under Hand that he/she intends to legalize

The provisions of Article 1874 of the Civil Code require public officials, in this case notaries, to read out the deed under the hand that they intend to legalize. Re-reading the deed under the hand to be legalized by a notary has the following meaning and purpose :

- a. Ensuring that the parties understand and comprehend the contents of the deed to be signed and notarized by the notary.

The obligation of the notary to read the deed before signing by the parties aims to ensure that the parties have understood and understood and agreed with the contents of the deed. This is done in order to minimize problems in the future where one of the parties feels unaware or misperceives the clauses contained in the deed.

The provision regarding the obligation to read the deed in front of the parties can be excluded by Article 16 paragraph (7) of the Notary Position Law, which reads

*“The reading of the Deed as referred to in paragraph (1) letter m is not obligatory, if the contributor wishes that the Deed not be read out because the contributor has read it himself, knows, and understands its contents, provided that this is stated in the closing of the Deed and on each page of the Deed Minute is initialed by the contributor, witness, and Notary.”*

Due to this provision, the reading of the deed at Legalization is not mandatory and it is desired to proceed directly to the signing of the deed. If the parties want the deed not to be read out, it must be stated in the closing of the deed as well as on each page of the Deed Minute which is initialed by the parties, witnesses, and Notary..

- b. Read the contents of the deed and check to minimize the occurrence of legal problems in the future

Before validating a deed under the hand, the notary is required to read out the contents of the deed. Therefore, the notary must utilize this opportunity to examine the content of the deed, whether it violates laws and regulations and/or public order or not.

If the content of the deed has the potential to violate laws and regulations and/or public order if signed, the notary can refuse to legalize it. The provision that a notary can refuse to provide services is regulated in the elucidation of Article 16 paragraph (1) letter e of the Notary Position Law, which states that the reasons for a notary to refuse to provide services, namely reasons that cause the Notary to be impartial, such as the existence of a blood relationship or *semenda* with the Notary himself or with his husband/wife, one of the parties does not have the ability to act to perform actions, or other things that are not permitted by law. If the notary knows that there are deed contents as in the reasons listed in the Explanation of Article 16 paragraph (1) letter e of the Notary Position Law, the notary can refuse to provide services in the form of Legalization.

R. Soegondo Notodisoerjo provides a view of the reasons for notaries to refuse to provide services. which can also be related to the authority of notaries to legalize, namely in one of the points which reads: "If because of the provision of these services, the Notary violates his oath or commits an unlawful act."

When a notary performs legalization, it is possible for the notary to violate his oath or commit an unlawful act. For example, a notary may perform a legalization knowing that the content of the deed could potentially harm one of the parties. If that happens, then the notary must refuse to provide the service.

After the notary refuses to provide legalization, the notary is obliged to provide legal advice. This is in accordance with the provisions of Article 15 paragraph (2) letter e of the Notary Law, which is the authority of the notary to become a legal counselor related to the making of deeds. He is entitled to provide legal advice to the confronters so that the deed that he intends to legalize does not violate either the prevailing laws and regulations or public order..

2. The following section will introduce the concept of legalization.

In legalizing a deed under the hand, a notary must know and apply the Legalization technique properly and correctly. This is important for notaries to apply, to minimize problems in the future. If there is a deficiency in the legalization statement made by the notary, the essence of legalization to certify and ensure the date and identity of the signatory is lacking and the notary must be responsible for the negligence.

In conducting legalization, the notary is obliged to provide a statement whose contents are as follows:

a. Title Legalization

The term "legalization" is employed to denote the act of formalizing a transaction through the use of a notarized document..

b. Number Legalization

Legalization number is a number determined by the notary based on the order in which the legalization or service is performed. The number will be recorded in a book prepared by the notary..

c. Statement of seeing and authorizing

This statement is the core of the Legalization, which is a statement that the Notary sees and certifies the signature. The statement becomes authentic evidence issued by the notary, that the signing of the deed was carried out in front of the notary directly.

d. The complete identity of the objectors

In legalizing a deed under the hand, it is necessary to record the complete identity of the confronters who want to apply for legalization by a notary. The identity recorded must be adjusted to the identity card submitted to the notary.

e. Date and time of signing

It is necessary to include the date and time of signing so that the date and time of signing the deed is recorded and can be strong evidence. The date and time of signing must be adjusted to the date and time of legalization in real time..

f. Notary Signature.

The notary must sign the legalization statement included in the deed under the hand to be legalized. The signature becomes authentic evidence that the notary has legalized a deed under the hand.

The six elements are important to be expressly stated on the deed legalized by the notary, to fulfill the legalization provisions in Article 1874 of the Civil Code and become strong evidence if it is disputed in the future..

3. Perform bookkeeping of the legalization process

After legalization, the notary is obliged to record the legalization of a deed under the hand into a special book provided by the notary. This is stated in the words "register in a special book" written in Article 15 paragraph (2) letter a of the Notary Position Law which regulates the authority of Notaries. The bookkeeping process is intended so that the preparation of a list of deeds legalized by a notary can be neatly arranged and stored properly if one day it is needed for the proof process.



In conducting bookkeeping, it is important for notaries to apply the precautionary principle. Everything that is recorded and recorded by a notary must be in accordance with what happens in practice. Therefore, the notary must be careful in observing the legalization process and then record and store everything needed for the bookkeeping process. If the notary cannot fulfill that, it can have an impact on the process of proving the deed and violate the notary's obligation to keep the notary protocol properly..

In addition to the application of the precautionary principle carried out in the ways written above, the application of the precautionary principle can also be done by notaries ensuring that the parties are aware of the essence and legal consequences of legalizing a deed under the hand. This is due to the public's limited knowledge of the duties and authority of notaries. The parties may think that the legalization of an underhand deed has the legal effect that the underhand deed has perfect evidentiary power like an authentic deed made by a notary, whereas the function of legalization is only to strengthen the formal proof of the signature and date of signing the deed. Therefore, the notary needs to provide understanding to the parties in detail before signing.

Based on the discussion above, it can be concluded that the application of the precautionary principle to the notary's authority to legalize can be done by introducing the identity of the confronting party, carefully reading the deed under the hand to be legalized, fulfilling the legalization technique, and carrying out the bookkeeping process for the legalization process. Notaries also need to ensure that the parties understand the essence and legal consequences of legalization, so that it does not become a problem in the future.

**B. Legal consequences for notaries who ignore the precautionary principle of their authority to perform legalization**

Notaries in exercising their authority are not free from mistakes or errors caused by unprofessional behavior so that problems occur in every product they issue (Rahman, 2018). As a public official who is given duties and authority that can increase the legal certainty of the deed he makes, Notaries often act carelessly which can result in legal problems, both in the realm of criminal law and civil law, caused by the parties providing false documents or information, or even notaries who are not honest and fair to the parties, thus causing legal problems with the products they issue.

Notaries must always be responsible when performing their official duties. According to the Big Indonesian Dictionary, Responsibility is a state of being obliged to bear everything in which if anything happens it can be prosecuted, blamed, litigated, and so on. Responsibility is also interpreted as a function of accepting burdens, as a result of the attitude of one's own party or another party. Hans Kelsen provides a detailed understanding of legal responsibility. In his theory of legal responsibility, he states that:

*“A person is legally responsible for a certain act or that he bears legal responsibility, the subject means that he is liable to a sanction in the event of an act contrary to the law.”* (Hans Kelsen, 2007)

Furthermore, Hans Kelsen stated that:

"Failure to exercise the precaution required by law is called negligence; and the error is usually seen as another type of error (culpa), although not as hard as the error that is fulfilled because it anticipates and wills, with or without malicious intent, harmful consequences" (Hans Kelsen, 2007:)

If the theory of responsibility is related to the responsibility of notaries in legalizing, then in general notaries are responsible for legalizing in accordance with the provisions of laws and regulations and applicable public order values. If the notary does things that are contrary to that, then he can be sued, blamed, sued, and must be responsible for the sanctions he gets both in his position and morally.

A notary is a public official as well as a legal profession that deals with many people. It is undeniable that people who choose to occupy the notary profession make notaries a livelihood to support both themselves and their families. This statement often gets notaries in trouble, because it legalizes various ways to get their personal benefits. Problems that have the potential to be obtained by notaries in legalizing are:

1. The deed is legalized when the parties are not facing each other;
2. The identity data of one of the parties in the deed is deemed incorrect or deemed to provide false information;
3. The date written does not match the date of signing.
4. The signature of one of the parties in the legalized deed is forged; or
5. The confronter uses the identity of another person.

In the perspective of procedural law, an underhand deed has perfect evidentiary power if the signature of the deed is recognized by the parties. So if the deed is denied by the parties, its evidentiary power changes to free, which means according to the judge's belief. He can state whether the deed is true and valid or declared null and void, based on the evidence attached to it. The deed can be declared null and void or can be canceled.

An underhand deed is declared null and void if there are objective conditions that are invalid. If the deed under the hand is declared null and void then the deed can be considered never existed and the legal actions carried out do not have legal consequences. The decision of null and void can be declared by a court decision that has permanent legal force.

In addition, the deed under the hand can also be sanctioned can be canceled. Underhand deeds can be declared revocable if there are subjective conditions that are invalid. Its cancellation depends on certain parties that can cause the legal act to be canceled. However, deeds that have sanctions can be canceled, remain valid and binding as long as there has been no court decision that has permanent legal force that cancels the deed.

The basis for examining cases in court is necessary in order to reveal the truth through the process of proof in court. What is meant in proof is to convince the panel of judges of the arguments put forward in a dispute or according to another understanding is the ability of the plaintiff or defendant to utilize the law of evidence

to support and justify the legal relationship and events postulated in the legal relationship in question.(Prastomo, 2017)

The authority of the notary to legalize is present in order to increase the evidentiary power of a deed under the hand and convince the judge of the arguments put forward, although only limited to several aspects. Based on the provisions of Article 1874 of the Civil Code which regulates the procedure for legalization, it should be able to increase the evidentiary power of an underhand deed by providing legal certainty of the truth of the subjective requirements for a legal act. The subjective requirements in the form of an agreement to carry out an agreement can be overcome by the notary's statement certifying the signature after reading the contents of the deed, and the ability to make an agreement can be overcome by verifying the identity of the parties to the notary through a valid identity card.

With the legalization of a deed under the hand, the judge has obtained certainty of legal consequences regarding the date and identity of the parties to the agreement and the signatures affixed to the agreement are true from the signatures whose names are listed in the parties. The people whose names are listed in the deed can no longer deny or say they do not know the contents of the deed, because the contents have been explained and read out before the parties sign the deed in front of witnesses that the notary recognizes.

However, in performing legalization, notaries often ignore the precautionary principle. Notaries often make mistakes by misrecognizing the identity of the confronters, or even notaries deliberately provide false information to benefit one of the parties. So if there are confrontants who are harmed by the notary's errors and omissions, the confrontants can apply for compensation. So there are legal remedies that can be taken by the confronters to apply for compensation as a result of notary negligence. These legal remedies are as follows:

1. If a notary is harmed as a result of the notary's negligence in exercising his/her authority, the notary may file a lawsuit demanding compensation, costs, and interest through the district court.
2. Other legal efforts can be made by submitting a report to the Regional Supervisory Council, so that the notary concerned is subject to administrative sanctions. (Hutama, 2012)

The process of imposing administrative sanctions imposed by the Supervisory Panel is regulated in the Code of Ethics for the office of Notary, the points and essence of which are as follows (Rahman, 2018):

- a) The Regional Honorary Council / Regional Honorary Council / Central Honorary Council can find facts on violations of the code of ethics by members of the association or after receiving written complaints from members of the association or other people accompanied by convincing evidence.
- b) After finding the facts of alleged violations of the code of ethics, no later than within 14 (fourteen) days the Honorary Council must summon in writing the member concerned to ensure the occurrence of violations of

the code of ethics. The summons is carried out no later than 14 (fourteen) working days before the date of the examination. If the member concerned is absent, the examining Honorary Council shall summon in writing the member concerned again no later than 14 (fourteen) working days after the first summons. If again absent, the Honorary Council may summon again for the third time no later than 14 (fourteen) working days after the second summons. If the member concerned still does not attend the hearing, the Honorary Council that examines continues to hold hearings and determine and / or impose sanctions.

- c) Based on the results of the examination, a minutes of examination is made which is signed by the member concerned and the examining Honorary Council. If the member concerned is not willing to sign, it is sufficient to be signed by the examining Honorary Council.
- d) The examining honor council, no later than 30 (thirty) days after the date of the last hearing, is required to make a decision on the results of the examination and determine the sanctions against the violator if there is evidence of a violation as stated in the decision letter. If the member concerned is not proven to have committed an offense, then the member is restored to his/her name by a Decree of the examining Honorary Council.
- e) The examining Honorary Council shall send the decision letter to the examined member by registered letter and a copy to the Central Management, Central Honorary Council, Regional Management, Regional Honorary Council, Regional Management, and Regional Honorary Council.
- f) If the sanction is decided at the Congress, it must be notified at the congress to the examined member by registered letter and a copy to the Central Management, Central Honor Council, Regional Management, Regional Honor Council, Regional Management, and Regional Honor Council.
- g) An appeal request is made by the member concerned within 30 (thirty) working days, after the date of receipt of the Decision Letter on the imposition of sanctions from the Regional Honor Council / Regional Honor Council. The appeal request is sent by registered letter or sent directly by the member concerned to the Central Honorary Council and a copy to the Central Board, Regional Management, Regional Honorary Council, Regional Management, and Regional Honorary Council.
- h) The Honor Council that decides on sanctions no later than 14 (fourteen) working days after receiving a copy of the appeal request must send all copies / photocopies of the examination file to the Central Honor Council.
- i) After receiving an appeal, the Central Honor Council must summon the member who filed the appeal, no later than 14 (fourteen) working days

after receiving the appeal to be heard and given the opportunity to defend themselves in the Central Honor Council hearing.

- j) The Central Honor Council must decide on the appeal no later than 30 (thirty) working days after the member concerned is examined at the last hearing. If the summoned member is not present, the Central Honor Council will still decide within the specified time.
- k) The Central Honorary Council shall send the decision letter to the examined member by registered letter and a copy to the Central Executive Board, Regional Executive Board, Regional Honorary Council, Regional Executive Board, and Regional Honorary Council no later than 14 (fourteen) working days after the date of the decision letter.
- l) If the appeal is submitted to the congress, the appeal request is made by the member concerned within 30 (thirty) working days before the congress is held. The appeal is sent by registered letter or sent directly by the member concerned to the Presidium of the congress through the Secretariat of the Central Management and a copy to the Central Management, Central Honor Council, Regional Management, Regional Honor Council, Regional Management, and Regional Honor Council.
- m) The Honorary Council that decides on sanctions no later than 14 (fourteen) working days after receiving a copy of the appeal letter must send all copies / photocopies of the examination file to the Presidium through the Secretariat of the Central Management.
- n) Congress must schedule an examination of the member who filed the appeal to be heard and given the opportunity to defend himself at the congress. The Congress shall also decide on the appeal at the Congress. If the appealing member does not attend the congress, the congress will still decide on the appeal. The Congress through the Central Honor Council shall send the decision letter to the examined member by registered letter and a copy to the Central Executive Board, Regional Executive Board, Regional Honor Council, Regional Executive Board, and Regional Honor Council.
- o) The Sanction Decision has permanent legal force in the event that:  
Anggota dikenakan sanksi berupa teguran dan peringatan;  
Anggota dikenakan sanksi berupa pemberhentian sementara atau pemberhentian dengan hormat atau pemberhentian dengan tidak hormat dari anggota Perkumpulan, menerima putusan tersebut dan tidak mengajukan banding dalam waktu yang telah ditentukan;  
Dewan kehormatan Pusat/Kongres telah mengeluarkan keputusan sanksi tingkat banding.

Although Legalization can increase the evidentiary power of an underhand deed, but still basically legalization of an underhand deed does not change the position of an underhand deed into an authentic deed. The legal effect of an underhand deed, namely its proof, depends on whether the existence of the deed is denied or

disavowed by the parties. If the signatures of the parties are denied or disavowed, then its material and formal strength may be lost. Underhand deeds that are legalized have stronger evidentiary power than underhand deeds that are not legalized. This is because an underhand deed that is legalized is signed before an authorized Notary or Public Official. If a notarial deed is faulted, the Notary is sometimes called to be a witness. In fact, it is not uncommon for notaries to be included as suspects or co-parties who help commit acts of forgery of deeds issued by notaries. (Adjie, 2008)

Based on the description of the discussion above, it can be concluded that the legal consequences for notaries who ignore the precautionary principle of their authority to legalize are that the deed legalized can be declared null and void or can be canceled by the court through a court decision that has permanent legal force. Notaries who ignore the precautionary principle can also be prosecuted by the aggrieved notary in the form of a lawsuit demanding compensation, costs, and interest through the court and submitting a report to the Regional Supervisory Council so that the notary concerned is subject to administrative sanctions..

## Conclusion

Based on the results of the author's research, the following conclusions can be drawn:

1. The application of the precautionary principle to the notary's authority to legalize can be done by introducing the identity of the confrontation, carefully reading the deed under the hand to be legalized, fulfilling the legalization technique, and conducting the bookkeeping process for the legalization process. Notaries also need to ensure that the parties understand the essence and legal consequences of legalization, so that it does not become a problem in the future.
2. The legal consequences for notaries who ignore the precautionary principle of their authority to legalize are that the deed they legalize can be declared null and void or can be annulled by the court through a court decision that has permanent legal force. Notaries who ignore the precautionary principle can also be prosecuted by the aggrieved notary in the form of a lawsuit demanding compensation, costs, and interest through the court and submitting a report to the Regional Supervisory Council so that the notary concerned is subject to administrative sanctions.

## Suggestions

The need for notaries to apply the precautionary principle properly so that it does not become a problem in the future.

The need for notaries to understand the legal consequences of ignoring the precautionary principle, so as not to become a problem with the declared cancellation of the deed in court or the prosecution of a lawsuit for compensation by the aggrieved parties..

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