

## **The Regional Supervisory Assembly's Role in the Submission Delaying of the Notary Protocol by Heirs to Notary Recipient Protocol**

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**Abstract.** *This study aims to analyze the role of the Regional Supervisory Council (MPD) in overseeing the submission of the notary protocol by the heirs to the protocol recipient notary, as well as the impact of the delay in submission. The research method applied in the preparation of this research is normative legal research. Normative legal research is a method that focuses on the study of positive law, namely the law that applies at a certain time and place. Notarial protocols are important documents that function as state archives and legal evidence. In this context, MPD has the responsibility to ensure that heirs fulfill their legal obligations in submitting notarial protocols on time. This research identifies various factors that cause delays in submission, including heirs' lack of awareness and knowledge, complicated administrative processes, as well as indifference to legal obligations. In addition, the research also revealed the negative impact of the absence of effective sanctions against late submission of protocols, which can result in legal uncertainty, losses for related parties, and a decrease in the integrity of the legal system. The results show that to improve the effectiveness of MPD supervision, socialization efforts, strengthening regulations, and enforcement of clear sanctions are needed. Thus, this study provides recommendations to improve the notary protocol submission mechanism and increase heirs' compliance with their legal obligations.*

**Keywords:** *Delay; Regional Supervisory Council; Notary; Protocol.*

### **1. INTRODUCTION**

Notaries in Indonesia began in the 17<sup>th</sup> century, to be precise on 27 August 1620, when Melchior Kerchem was appointed as the first notary in Indonesia by Jan Pieterzoon Coen, Governor General of the VOC (*Vereenigde Oostindische Compagnie*) in Jakarta. Kerchem, who served as secretary of the College van Schepenen, had the task of facilitating the creation of legal documents for citizens of the Dutch East Indies, especially for foreign European and eastern residents. After Kerchem's appointment, the number of notaries continued to increase to meet the increasing legal needs in

Batavia (now Jakarta). At that time, notaries generally came from European and eastern foreign circles, while several educated natives were also appointed as notary assistants, although in limited numbers.<sup>1</sup>

In 1860, the Dutch colonial government began to regulate the position of notary more formally through the *Ordonnantie op het Notarisambt*, which established the legal framework for this profession. After Indonesia became independent in 1945, the regulation of notary positions continued with the appointment and dismissal of notaries which is now carried out by the Minister of Law and Human Rights, in accordance with Law No. 33 of 1945. The legal basis that regulates the notary profession in Indonesia today is Law. Law No. 30 of 2004 concerning the Position of Notaries (UUJN), which has undergone several changes, including through Law No. 2 of 2014. In UUJN, a notary is defined as a public official who has the authority to make authentic deeds and has other authorities regulated in law the. Article 15 UUJN stipulates that a notary has the authority to make authentic deeds regarding all acts, agreements and stipulations required by statutory regulations. UUJN also emphasizes the importance of notary accountability to the public, where notaries can be held accountable for the deeds they make if they are proven to violate applicable legal provisions.<sup>2</sup>

An authentic deed, according to Article 1868 of the Civil Code (Civil Code), is a deed made in the form determined by law by or in the presence of an authorized public official, in the place where the deed is made. This deed must meet the formal and substantial requirements established by law to be considered valid and authentic. Authentic deeds have several advantages in terms of evidentiary power, namely, external evidential power. This deed can prove its authenticity and validity without requiring additional evidence. The second is the Power of Formal Proof, an authentic deed provides certainty regarding the date, signature, identity of the parties involved, and the place where the deed was made and finally the Power of Material Proof, this Deed also proves that the actions described in the deed have been carried out by the parties. parties involved.<sup>3</sup>

An authentic deed is considered the strongest piece of evidence in court, and does not require additional evidence to support its validity. Authentic deeds have a strong legal basis in Indonesia, namely in the Civil Code (*KUHPerdata*) in Article 1867 which states that proof can be carried out in authentic writing or private writing. Then there is Article 1868 which defines an authentic deed and stipulates the conditions for making it. And Article 1869 also explains that a deed that does not meet the requirements as an authentic deed can be considered a private deed if it is signed by the parties.<sup>4</sup>

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<sup>1</sup>Pandamdari, E. (2018). Peranan Ikatan Notaris Indonesia (INI) Terhadap Pengawasan Notaris Dalam Pelaksanaan Tugas Jabatan Notaris Di Provinsi DKI Jakarta. *Jurnal Hukum Adigama*, 1(1), 1733-1755.

<sup>2</sup>Ghansham Anand, S. H., & Kn, M. (2018). *Karakteristik jabatan notaris di Indonesia*. Prenada Media.

<sup>3</sup>Rosalina, Z. (2016). *Keabsahan Akta Notaris Yang Menggunakan Cyber Notary Sebagai Akta Otentik* (Doctoral dissertation, Brawijaya University).

<sup>4</sup>Arsono, Y. (2023). *REKONSTRUKSI REGULASI KEWENANGAN HAKIM UNTUK MENILAI AKTA OTENTIK SEBAGAI ALAT BUKTI DALAM SENGKETA KEPERDATAAN DI PENGADILAN BERBASIS NILAI KEADILAN BERMARTABAT* (Doctoral dissertation, UNIVERSITAS ISLAM SULTAN AGUNG).

In carrying out their duties, notaries in Indonesia have an obligation to follow applicable legal regulations, which aim to provide legal certainty to the parties involved in transactions. A notary acts as a public official who has the authority to make authentic deeds, which are legal documents that have high evidentiary power. Notaries are obliged to carry out their duties in accordance with the provisions regulated in Law No. 30 of 2004 concerning the Position of Notaries (UUJN) and other statutory regulations.<sup>5</sup>

One of the important responsibilities of a notary is to prepare the deed in minute form and store it as part of the notarial protocol. This is regulated in Article 16 paragraph (1) letter b of Law No. 30 of 2004 concerning Notary Positions (UUJN). Deed minutes are original copies of deeds made by a notary. Storing the minutes of the deed as part of the notary's protocol has a very important purpose, namely to ensure the authenticity of the document. In this way, the authenticity of the deed is maintained even if the notary concerned has retired or even died. According to this article, storing deed minutes helps ensure that the contents of the deed remain unchanged and can be accounted for. This is important to prevent forgery or manipulation of documents in the future. With the minutes of the deed stored in the protocol, interested parties can access the document if necessary, for example for legal or administrative purposes. The existence of deed minutes provides legal protection for the parties involved in the agreement, because the deed can be used as valid evidence in court if a dispute occurs.<sup>6</sup>

Article 62 of Law No. 30 of 2004 concerning the Position of Notaries (UUJN) regulates notary protocols, which are a collection of important documents that must be kept and maintained by notaries.<sup>7</sup> This protocol functions as a state archive and has an important role in providing legal certainty. The following are details regarding the components included in the notary protocol<sup>8</sup>:

### 1. Minutes of Deed

Deed minutes are original copies of deeds made by a notary. This includes all important information regarding the agreement or transaction carried out, including the signatures of the parties, witnesses, and the notary himself. The minutes of the deed function as a valid legal document and are authentic evidence of the agreement that has been agreed.

### 2. Register of Deeds or Repertory

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<sup>5</sup>Andhika, A. R. (2016). Pertanggungjawaban Notaris Dalam Perkara Pidana Berkaitan Dengan Akta Yang Dibuatnya Menurut Undang-Undang Nomor 2 Tahun 2014 Tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004. *Premise Law Journal*, 1, 14144.

<sup>6</sup>Sodiq, M. (2017). Relevansi Kewajiban Ingkar Notaris dalam Menjalankan Jabatannya (Analisis Pasal 16 Huruf f Undang-Undang Nomor 2 Tahun 2014 tentang Perubahan Atas Undang-Undang Nomor 30 Tahun 2004 tentang Jabatan Notaris). *Lex Renaissance*, 2(1), 9-9.

<sup>7</sup>Noer, Z., & Fajriyah, Y. (2021). Pertanggungjawaban Notaris Terhadap Protokol Notaris Sebagai Arsip Negara: Arsip Negara, Limitasi, Pertanggungjawaban, Protokol Notaris.

<sup>8</sup>Arrizal, N. Z., & Fauzi, M. A. (2023). KEPATUHAN HUKUM SEBAGAI PENCEGAHAN PELANGGARAN JABATAN NOTARIS. *Jurnal Jurisprudencia*, 6(2), 27-37.

A repertory is a book that records all deeds that have been made by a notary. This book includes important information such as the date the deed was made, the type of deed, and the identities of the parties involved. With this list, notaries can easily track and find deeds they have made in the past.

### 3. Register of Deeds Under Hand

This includes books that record private deeds whose signing takes place in the presence of a notary. A private deed is a document that is not made in the form of an authentic deed but still has legal force. The notary is responsible for recording and storing information regarding these deeds.

### 4. List of Facing or Klapper Names

This book records the names of the parties who appear before the notary to make the deed. This serves as an important record to find out who has made transactions or agreements before a notary. By recording the name of the person present, the notary can ensure that all parties involved in the deed have been clearly identified.

### 5. Protest List

The protest register includes records regarding protests submitted by certain parties related to deeds or transactions carried out. This protest can be related to dissatisfaction or objections to the contents of the deed, and is important to note so that the notary can provide an explanation or follow-up action if necessary.

### 6. Register of Wills

The register of wills records all wills made and kept by a notary. A will is a document that states a person's wishes regarding the distribution of assets after death. By keeping a register of wills, the notary can ensure that the will of the testator can be fulfilled in accordance with applicable law.

### 7. Other Lists Kept by the Notary Public

In addition to the above components, the notary protocol may also include other documents permitted by statutory regulations. This includes documents relevant to the notary's duties that are not specifically mentioned in the article, but are still important to keep as part of the protocol.

Article 62 UUJN clearly regulates the components that must be included in a notary protocol. This protocol not only functions as an archive, but also as a guarantee that important documents are maintained and can be accessed when needed. If a notary dies, his heirs, consisting of the husband or wife and blood relatives in the direct line of descent up to the second degree, have the obligation to notify the Regional Supervisory Council (MPD) no later than seven working days. Apart from that, they must also submit the notarial protocol to the notary receiving the protocol within a maximum period of thirty days. This provision is regulated in Article 35 of Law No. 30 of 2004 concerning Notary Positions (UUJN). The obligations of heirs according to

Article 35 UUJN are as follows<sup>9</sup>:

1. Notification to MPD. The heirs are required to report the notary's death to the MPD within seven working days. This notification is important to ensure that authorities are aware of the situation and can take necessary steps.
2. Submission of Notary Protocol. The heirs must submit the notary protocol to another notary appointed by the MPD within thirty days after the notary's death. This submission must be accompanied by an official report signed by the party submitting and the party receiving the protocol.
3. Duties of a Substitute Notary. If a notary dies while on leave, his duties will be continued by the Substitute Notary as Temporary Acting Notary for a maximum of thirty days after death. The Temporary Notary Officer is responsible for maintaining the continuity of the notary's duties.
4. Retention of Protocols by Temporary Officials. The Temporary Notary Officer must submit the notarial protocol of the deceased notary to the MPD no later than sixty days after the date of death. This ensures that documents are maintained and accessible when needed.
5. Abilities of Temporary Officials. The Temporary Notary Officer has the authority to make deeds in his own name and also has a notary protocol. This provides flexibility in carrying out notary duties even if a transition occurs.

The heir's obligation to notify the MPD and submit a notary protocol is an important step to maintain the continuity of notary services and ensure that all legal documents are maintained. Notary protocols, which are state archives, must be managed well in order to provide legal certainty for the parties involved. Notification regarding the death of a notary must be submitted within a maximum of seven working days after the notary dies. Furthermore, the notary protocol will be submitted to another notary appointed as a substitute, in accordance with the provisions of Article 62 letter (a) of Law No. 30 of 2004 concerning the Position of Notaries (UUJN). Submission of this protocol is carried out by the notary's family or heirs and must be ratified by the Regional Supervisory Council (MPD) based on Article 63 paragraph (2) UUJN.<sup>10</sup>

The Temporary Notary Official who will receive the protocol is appointed and ratified by the MPD in accordance with Article 70 UUJN. The protocol submission process must be carried out no later than thirty days, and must be accompanied by a minutes of submission signed by the party submitting and the party receiving the protocol, in accordance with Article 63 paragraph (1) UUJN. The protocol held by the notary who has died is then handed over by the heirs to the Temporary Notary Officer. The Acting

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<sup>9</sup>RIJAL, A. (2024). *TANGGUNG JAWAB NOTARIS PENERIMA PROTOKOL DARI NOTARIS YANG MENINGGAL DUNIA DI KABUPATEN KENDAL* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

<sup>10</sup>Amelia, A. P. (2023). *IMPLEMENTASI PASAL 62 UNDANG-UNDANG NOMOR 2 TAHUN 2014 TENTANG JABATAN NOTARIS TERKAIT PENYERAHAN PROTOKOL NOTARIS DI KOTA BANDAR LAMPUNG*.

Notary Public is then responsible for submitting the protocol to the MPD within a maximum of sixty days after the notary's death. However, in practice, there is often a discrepancy between implementation in the field and the provisions regulated in law. Many heirs or families of notaries do not carry out the obligations regulated in Article 35 UUJN properly, thereby violating existing provisions.<sup>11</sup>

The notary's family or heirs have the obligation to notify the authorities of the notary's death within seven working days. This is an important first step to ensure that the notary replacement process can be carried out quickly and efficiently. The notary protocol, which is an important document that stores all deeds and transactions that have been carried out by the notary, must be submitted to the substitute notary. This handover is carried out by the heirs and must be authorized by the MPD to ensure that all procedures are followed correctly. The Temporary Notary Officer appointed by the MPD is tasked with receiving and managing the submitted notary protocols. They are also responsible for submitting the protocol to the MPD within sixty days of the notary's death.<sup>12</sup>

Submission of the protocol must be accompanied by an official report signed by the party submitting and receiving the protocol. This is formal proof that the handover has been made and can be used as a future reference. Even though there are clear provisions in the UUJN, discrepancies often occur in the field. Many heirs do not fulfill their obligations in accordance with Article 35 UUJN, which can cause legal and administrative problems in the future.<sup>13</sup>

A notary protocol is a collection of documents that function as state archives and must be maintained and stored by a notary in accordance with applicable legal provisions. If a notary dies, his heirs have a legal obligation to hand over the protocol to the notary receiving the protocol appointed by the Regional Supervisory Council (MPD). This obligation is regulated in the Notary Position Law (UUJN), especially in Article 35, Article 62 and Article 63, as well as in Article 39 of the Minister of Law and Human Rights Regulation Number 25 of 2014.<sup>14</sup>

Even though there are regulations that regulate the obligation of heirs to submit protocols, in practice there are still many heirs who do not carry out this submission according to the specified time. Delays in submitting notary protocols by heirs not only disrupt the administrative process, but can also cause losses for parties who need access to these documents for various legal purposes. When a notary dies, the heirs—who can be husband/wife or blood relatives up to the second degree—are legally obliged to submit the notary protocol to the recipient notary appointed by the MPD. This submission is an important step to maintain continuity of administration and

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<sup>11</sup>Rahman, Y. P. (2019). Pengaturan Penyerahan Protokol Notaris Yang Telah Meninggal Dunia Dan Prakteknya Di Provinsi Sumatera Barat. *JCH (Jurnal Cendekia Hukum)*, 5(1), 1-17.

<sup>12</sup>Wirastuti, B. A. (2017). Akibat Hukum Protokol Notaris yang Tidak Diserahkan oleh Ahli Waris kepada Notaris Lain. *Al-Qanun: Jurnal Pemikiran dan Pembaharuan Hukum Islam*, 20(2), 511-534.

<sup>13</sup>Sudhyatmika, I. B. K. W., & Swardhana, G. M. (2022). Akibat Hukum Protokol Notaris Yang Telah Meninggal Dunia Yang Belum Diserahkan Oleh Ahli Waris. *Acta Comitatus*, 2(2).

<sup>14</sup>Sunaryanto, H. (2018). Efektivitas Tempat Penyimpanan Protokol Notaris yang Telah Berumur 25 Tahun. *Jurnal Hukum dan Kenotariatan*, 2(2), 288-301.

access to relevant documents.

This obligation is regulated in several articles in the UUJN<sup>15</sup>:

- Article 35 "Regulates the obligation of the heirs to notify the notary of the death and submit the protocol".
- Article 62 "States the components that must be present in a notary protocol".
- Article 63 "Regulates the protocol submission process".
- Apart from that, Article 39 of Permenkumham Number 25 of 2014 also provides additional provisions regarding the management of notary protocols.

Delays in submitting protocols can disrupt administrative processes related to legal documents. This can cause problems for parties who need quick access to documents for legal purposes, such as in cases of disputes or other administrative needs. Even though regulations have been established, many heirs do not comply with these obligations, indicating a gap between legal provisions and practice in the field. This emphasizes the need for socialization and better understanding of the legal responsibilities carried out by heirs. Notary protocols are an important element in the legal system that must be managed properly. The obligation of the heirs to submit the protocol to the recipient notary is a crucial step to maintain the integrity of the documents and the smoothness of the administration process. However, challenges in implementing this obligation indicate the need for more attention to increase awareness and compliance with applicable legal provisions.<sup>16</sup>

One of the main factors causing this delay is the absence of clear and firm sanctions in the UUJN or other related regulations against heirs who do not submit notary protocols on time. This lack of clarity means that many heirs do not feel compelled to immediately carry out their obligations. Apart from that, the lack of socialization regarding the importance of submitting notary protocols to heirs also contributes to this problem.<sup>17</sup>The Regional Supervisory Council (MPD) has an important role in supervising the implementation of the submission of notary protocols by heirs. MPD is tasked with ensuring that the handover process runs in accordance with applicable regulations. However, in many cases, MPD is not optimal in carrying out this role. Limited authority to impose sanctions on heirs who do not fulfill their obligations is one of the main obstacles faced by the MPD.<sup>18</sup>

This research aims to examine the role of the MPD in dealing with the problem of delays in submitting notary protocols by heirs. The main focus of this research is to analyze how the MPD can be more effective in supervising and following up on the submission of notary protocols and finding solutions to overcome existing obstacles,

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<sup>15</sup>Buko, S. H. (2017). Analisis Yuridis Tentang Kewajiban Notaris Dalam Memberikan Jasanya Kepada Masyarakat Yang Tidak Mampu Berdasarkan UU No. 2 Tahun 2014. *Lex Privatum*, 5(1).

<sup>16</sup>Rizadi, N. (2023). *Efektivitas Fungsi Pengawasan Bagi Majelis Pengawas Daerah terhadap Keterlambatan Pelaporan Notaris Terkait dengan Hak Wasiat* (Doctoral dissertation, Universitas Islam Indonesia).

<sup>17</sup>Budiono, Herlien. (2013). *Dasar Teknik Pembuatan Akta Notaris*. Bandung: Citra Aditya Bakti.

<sup>18</sup>Permana, Yopi. (2019). "Pengaturan Penyerahan Protokol Notaris Yang Meninggal Dunia Dan Prakteknya di Prov. Sumatra Barat", *Jurnal Cendikia Hukum*, Vol.1 No.1.

including the need for stricter sanctions regulations in statutory regulations. With this research, it is hoped that it can make a significant contribution in efforts to increase heirs' awareness and compliance with the obligation to submit notary protocols. Apart from that, it is also hoped that this research can provide constructive recommendations for policy makers in formulating clearer and firmer rules regarding sanctions for late submission of notary protocols by heirs. Based on the background description above, we can formulate the problem as follows: 1) What is the role of the Regional Supervisory Council in supervising the submission of notary protocols by heirs? 2) What is the impact of the absence of sanctions on delays in submitting notary protocols by heirs?

## **2. REASEARCH METHODS**

The research method applied in preparing this research is normative legal research.<sup>19</sup> Normative legal research is a method that focuses on the study of positive law, namely the law that applies at a certain time and place. This research is *sui generis*, which means it is unique and distinctive because it examines the norms or rules that regulate human behavior in society. The approach used in this research includes a statutory approach and a conceptual approach. The legislative approach is carried out by analyzing various statutory regulations that are relevant to the research topic, while the conceptual approach is carried out by examining legal concepts related to the role of the Regional Supervisory Council and notary protocols.

## **3. RESULTS AND DISCUSSION**

### **3.1. The Role of the Regional Supervisory Council in Supervising the Submission of Notary Protocols by Heirs**

The Regional Supervisory Council (MPD) is an institution whose function is to supervise and regulate notary activities at the regional level. MPD has an important role in ensuring that all processes related to notaries, including the submission of notary protocols, are carried out in accordance with applicable legal provisions. The following is an explanation of the MPD, its role, and the legal basis that regulates it. MPD is an institution formed at the district or city level whose task is to supervise the implementation of notary duties. MPD functions to maintain the integrity of the notary profession and ensure that all notary activities are carried out in accordance with applicable laws and regulations.<sup>20</sup>

MPD is responsible for overseeing the process of submitting notary protocols when a notary dies. Notary protocols are a collection of important documents that must be stored and managed properly, including deed minutes and deed register books. After receiving notification of the notary's death from the heir, the MPD will appoint a notary recipient of the protocol. This appointment is important to ensure that the notary protocol is managed well and maintains its authenticity. MPD checks and verifies the

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<sup>19</sup>Tersiana, A. (2018). *Metode penelitian*. Anak Hebat Indonesia.

<sup>20</sup>Almuslimah, A., Bakry, M. R., & Yusuf, C. (2021). Kepastian Hukum Dalam Penyelesaian Pelanggaran Etika Rangkap Jabatan Notaris Oleh Majelis Pengawas Daerah. *ADIL: Jurnal Hukum*, 12(2).



documents submitted to ensure that all deeds and important documents in the notary protocol have been stored properly. This is important to maintain the integrity and validity of the document. MPD also plays a role in providing legal protection to notaries receiving protocols. If a dispute or legal problem arises regarding the stored documents, the MPD is responsible for providing support and ensuring that the notary receiving the protocol can carry out their duties properly.<sup>21</sup>

The Regional Supervisory Council (MPD) has a very important role in maintaining the integrity and validity of notarial documents in Indonesia. With clear regulations in the UUJN, the MPD is tasked with supervising the process of submitting notary protocols, appointing the recipient notary, and providing legal protection. This aims to ensure that all notary activities are carried out in accordance with applicable legal provisions, as well as providing legal certainty for people who need access to these documents. The Regional Supervisory Council (MPD) is an institution that has an important role in supervising and regulating notaries in Indonesia. The MPD is tasked with ensuring that all notary activities, including the submission of notary protocols, are carried out in accordance with applicable legal provisions. The following is an explanation of the role of the MPD and the legal basis that regulates it. The Regional Supervisory Council (MPD) has the role and responsibility to supervise notary protocols. The MPD is also responsible for supervising the process of submitting notary protocols when a notary dies. A notary's protocol is a collection of documents that constitute a state archive, including minutes of deeds, register of deeds, and other documents that must be kept and maintained by a notary. When a notary dies, his heirs are required to notify the MPD and submit the protocol to the recipient notary appointed by the MPD. This is regulated in Article 62 and Article 63 of the Notary Position Law.<sup>22</sup>

The MPD has the authority to appoint a notary who will receive protocols from a deceased notary. This appointment is important to ensure that the notary protocol is well managed and maintains its authenticity. Based on Article 70 UUJN, the MPD can appoint a protocol recipient notary who is tasked with storing and managing these documents. Apart from that, MPD also plays a role in providing legal protection to notaries who receive protocols. In the event of a dispute or legal problem related to stored documents, MPD is responsible for providing support and ensuring that the notary receiving the protocol can carry out their duties properly. As explained in Law No. 30 of 2004 concerning the Position of Notaries (UUJN), Article 6 "Regulates the obligation to submit notary protocols and the situations in which such submission must be made, including when the notary dies."

When a notary dies, his heirs, who can be husband/wife or blood relatives in a straight line up to the second degree, have the obligation to notify the MPD no later than seven working days after death. This obligation aims to enable the MPD to take the necessary steps to regulate the submission of notary protocols. After the notification, the heirs are required to submit the notary protocol to another notary appointed by the MPD within a maximum of thirty days. This handover is regulated in Article 62 letter (a) and

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<sup>21</sup>Utami, S. N. (2024). *TANGGUNG JAWAB WERDA NOTARIS TERHADAP HILANGNYA MINUTA AKTA YANG DIBUATNYA* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

<sup>22</sup>Arisaputra, M. I. (2012). Kewajiban Notaris Dalam Menjaga Kerahasiaan Akta Dalam Kaitannya dengan Hak Ingkar Notaris. *Perspektif*, 17(3), 173-183.

Article 63 paragraph (1) UUJN. The notarial protocol in question includes various important documents, such as deed minutes, deed register books, and other documents which constitute state archives. The protocol submission process must be accompanied by an official report signed by the party submitting and the party receiving the protocol. This minutes serves as formal proof that the handover has been made and ensures that all parties are involved in this process. MPD plays a role in ensuring that the process of submitting the notary protocol runs well and in accordance with applicable legal provisions. They are also tasked with monitoring and supervising that the heirs fulfill their obligations in submitting the protocol.<sup>23</sup>

The application of regulations regarding the submission of notary protocols is regulated in the UUJN and implemented through MPD actions. Article 70 UUJN gives the MPD the authority to appoint a notary receiving the protocol and supervise the entire delivery process. If there is a delay in submitting the protocol by the heirs, the MPD can provide a written warning and take the necessary legal steps to enforce compliance with existing provisions. In practice, even though there are clear regulations, there are often discrepancies between legal provisions and implementation in the field. Many heirs do not carry out the obligation to submit protocols within the specified time, which can hamper the administration process and cause losses for parties who need access to legal documents.<sup>24</sup>

MPD also has the responsibility to carry out checks on submitted documents and ensure that all procedures are followed correctly. This is important to maintain the integrity of the notary system and provide legal certainty for people who need access to these documents. The Regional Supervisory Council (MPD) has an important role in ensuring the validity of the notary protocols received, especially when a notary dies. Notary protocols are a collection of important documents that must be stored and managed properly, and MPD is responsible for overseeing the delivery process and ensuring that all legal procedures are followed. The following is a further explanation of how the MPD ensures the validity of the notary protocol received<sup>25</sup>:

### 1. Notary Death Notification Process

When a notary dies, his heirs, such as husband/wife or blood relatives in a straight line up to the second degree, are required to notify the MPD within a maximum of seven working days after death. This notification is important so that the MPD can take the necessary steps to arrange the delivery of notarial protocols held by a deceased notary.

### 2. Appointment of Protocol Recipient Notary

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<sup>23</sup>Amalia, S. (2019). *Implementasi Kewajiban Membuat Berita Acara Serah Terima Terhadap Penyerahan Protokol Notaris (Studi Kasus Di MPD Kota Bima)* (Doctoral dissertation, Universitas Brawijaya).

<sup>24</sup>P Podungge, H. Z. (2022). *Kewenangan Notaris Menjalani Jabatannya Pasca Putusan Pidana*.

<sup>25</sup>Ghansham Anand, S. H., & Kn, M. (2018). *Karakteristik jabatan notaris di Indonesia*. Prenada Media.

After receiving the notification, the MPD will appoint a notary recipient of the protocol in accordance with the provisions in Article 62 and Article 63 of the Notary Position Law. This appointment is made to ensure that the notary protocol which constitutes the state archive can be managed properly. MPD is responsible for ensuring that the appointed notary has the capacity and integrity to store and manage the protocol.

### 3. Protocol Verification and Inspection

Before submitting the protocol, MPD ensures that all documents in the notary protocol are complete and appropriate. The protocol in question includes various documents, such as minutes of deeds, register of deeds, and other documents. MPD can carry out checks to ensure that all documents submitted are in good condition and nothing is missing. This is important to maintain the validity and integrity of the document.

### 4. Minutes of Handover

The process of submitting a notarial protocol must be accompanied by an official report signed by the party giving it (the heir) and the party receiving it (the receiving notary). This minutes serves as formal proof that the submission has been made and records all important details regarding the documents submitted. MPD plays a role in ensuring that the minutes are prepared in accordance with applicable regulations.

### 5. Supervision and Follow-up

After the notary protocol is submitted to the recipient notary, MPD continues to supervise to ensure that the document is managed properly. If there are problems or discrepancies in managing the protocol, the MPD has the authority to take action, including giving a warning or sanction to the recipient notary if necessary. This is regulated in Article 70 UUJN which gives MPD the authority to supervise and follow up on the management of notary protocols.

### 6. Protocol Storage and Security

MPD also ensures that notary protocols are stored safely and their authenticity is maintained. Notary protocols are important state records, so MPD is responsible for ensuring that all steps are taken to protect these documents from damage or loss.

The Regional Supervisory Council (MPD) faces various challenges in the process of submitting notary protocols, especially when a notary dies. The following are some of the challenges faced by the MPD in carrying out its functions. One of the main challenges faced by the MPD is the lack of awareness and knowledge of the heirs or families of deceased notaries. Many heirs do not understand the importance of submitting the notary's protocol and their legal obligation to notify the MPD of the notary's death. This often causes delays in the protocol submission process, which

should be carried out within the specified time, namely a maximum of seven days for notification and thirty days for protocol submission.<sup>26</sup>

Apart from lack of knowledge, ignorance is also a factor causing obstacles in the submission of protocols. Many heirs do not take their responsibilities in this process seriously, and therefore do not take the necessary steps to submit the protocol to the recipient notary appointed by the MPD. This indifference can result in notary protocols that should be managed properly being neglected, which has an impact on legal certainty for parties who need access to these documents. Complicated administrative processes are also a challenge for MPD. Submission of a notary protocol requires various documents and procedures that must be fulfilled, such as a delivery report which must be signed by the party giving it and the party receiving it. If any documents are incomplete or inappropriate, the submission process could be hampered. MPD must ensure that all administrative requirements are met before submission is made, which can take time and effort.<sup>27</sup>

### **3.2. The Impact of the Absence of Sanctions on Delays in Submitting Notary Protocols by Heirs**

Every notary in carrying out his duties is always under the supervision of an institution authorized by the Minister. With the implementation of the UUJN, supervision, guidance, examination and imposition of sanctions on notaries is carried out by the Minister of Law and Human Rights through the formation of the Notary Supervisory Council. The aim of this supervision is to maintain and protect the public's interest in notarial deeds as authentic deeds which are part of the notary's protocol, related to their function as the strongest and most complete written evidence. The Notary Supervisory Council is the only institution that has the authority to supervise, guide, examine and impose sanctions on notaries. In general, supervision is an activity carried out by an institution or supervisory body to see, pay attention, observe, control, assess and maintain and provide direction to the notary.<sup>28</sup>

Delays in submitting the notary protocol by the heirs can be caused by various factors. The following is the author's analysis of the factors that hinder the submission of the notary protocol by the heirs:

#### **1. Lack of Awareness and Knowledge of Heirs**

Many heirs do not fully understand their obligations regarding the submission of notarial protocols after the notary's death. They may not realize the importance of notary protocols as state archives and valid legal evidence. This ignorance can cause

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<sup>26</sup>Hutauruk, R. H., Laily, N., Tan, D., & Zulhairi, Z. (2021). Efektivitas Majelis Pengawas Daerah Notaris Kota Batam dalam Peningkatan Layanan Notaris Sebagai Pejabat Umum. *Repertorium: Jurnal Ilmiah Hukum Kenotariatan*, 10(1), 28-48.

<sup>27</sup>Haloho, M. B. (2020). *Penerapan Pasal 35 Undang Undang Jabatan Notaris Dalam Kaitannya Dengan Penyerahan Protokol Notaris Yang Meninggal Dunia Dikota Pekanbaru* (Doctoral dissertation, Universitas Islam Riau).

<sup>28</sup>Toruan, H. D. L. (2020). Legalitas Keberadaan Majelis Pengawas Notaris Dan Majelis Kehormatan Notaris. *Jurnal Penelitian Hukum De Jure*, 20(3), 435-458.

delays in the handover process, because the heirs do not know the procedures that must be followed or are not aware of the deadlines set by law, namely a maximum of 30 days after the notary's death to hand over the protocol to the recipient notary appointed by the Regional Supervisory Council (MPD).

## 2. Complicated Administrative Process

The process of submitting a notary protocol involves various administrative steps that must be fulfilled, including preparing a minutes of delivery which must be signed by the party giving it and the party receiving it. If any documents are incomplete or inappropriate, this can hamper the submission process. The heirs may find it difficult to fulfill all the necessary requirements, which may cause delays [5].

## 3. Indifference or Unseriousness

Some heirs may not take their responsibility to submit a notarial protocol seriously. This indifference may arise from the belief that there are no legal consequences they will face if they do not submit the protocol on time. Without clear sanctions for heirs who are late in submitting protocols, they may feel there is no urgency to do so.

## 4. Resource Limitations

Limited resources, both in terms of time and energy, can also be a factor causing delays. The heirs may have other activities that prevent them from immediately completing the protocol submission process. In addition, if the heirs do not have adequate access to a notary or MPD, this can slow down the handover process [2].

## 5. Coordination Problems with Related Parties

Coordination between heirs and other parties involved, such as the MPD or recipient notary, can also be a challenge. If there are difficulties in communicating or if the parties cannot be contacted quickly, this can cause delays in the submission of the protocol [1].

Delays in submitting notary protocols by heirs can be caused by lack of awareness and knowledge, complicated administrative processes, indifference, limited resources, and coordination problems. To overcome this problem, it is important for the MPD and related institutions to increase outreach regarding the obligations of heirs and simplify the administrative processes required for submitting notary protocols. In this way, it is hoped that the handover process can run more smoothly and in accordance with applicable legal provisions. Delays in submitting notarial protocols by heirs are an important issue in notarial practice in Indonesia. Although there are legal provisions that regulate the obligations of heirs in submitting protocols, there are deficiencies in terms of sanctions for those who do not fulfill these obligations. The following is an overview of the relevant legal provisions and their implications.<sup>29</sup>

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<sup>29</sup>Miranda, E. (2023). *Peran dan Tanggung Jawab Notaris Pengganti dalam Legalisasi Surat Kuasa Apostille* (Doctoral dissertation, Universitas Islam Indonesia).

Article 35 UUJN regulates the obligation of heirs to notify the Regional Supervisory Council (MPD) about the death of a notary within a maximum of seven days. Then in Article 63, it states that the heirs are obliged to submit the notary protocol to the recipient notary appointed by the MPD within a period of thirty days at the latest. Notarial protocols include various important documents, such as minutes of deeds and registers of deeds and Article 63 paragraph (6). In the event that the heir does not submit the protocol within the specified time period, the MPD has the authority to take the notarial protocol. Then it is also explained in Article 39 of Permenkumham Number 25 of 2014 which confirms the obligation of heirs to notify the MPD regarding the death of a notary and submit a notary protocol.<sup>30</sup>

Even though there are clear provisions regarding the obligation of heirs to submit protocols, the UJN and related regulations do not include specific sanctions for heirs who are late or do not submit notary protocols. This creates several problems<sup>31</sup>:

1. Lack of Legal Consequences Without clear sanctions, heirs may feel no urgency to fulfill their obligations. The absence of sanctions can lead to non-compliance and delays in protocol submission.
2. Losses for Related Parties: Delays in submitting notary protocols can result in material losses for the public who need access to these documents for legal purposes. For example, the documents contained in a notary's protocol are very important for resolving inheritance matters and other legal needs.
3. Unclear Responsibility: Although the heirs have the responsibility to submit the protocol, the lack of clarity regarding the legal consequences for those who do not carry out this obligation can cause confusion and disputes in the future.

Delays in submitting notarial protocols by heirs can have significant negative impacts, especially because there are no effective sanctions to regulate this obligation. The notary protocol contains important documents that serve as legal evidence. Delays in submission can cause uncertainty regarding the status of the document, which has an impact on parties who need access to the deed stored in the protocol. Without legal certainty, interested parties cannot continue legal or administrative processes that rely on the document. Unclearness in managing notary protocols can cause disputes between heirs and other parties who feel disadvantaged. For example, if deeds required to complete an inheritance or transaction cannot be accessed due to delays, this may trigger conflict between interested parties. Delays in submitting notary protocols can result in material losses for parties who need quick access to legal documents. For example, if an heir cannot access the deeds necessary to settle inheritance matters, this can result in significant financial loss. Notary protocols are important state archives. Failure to comply with the heirs in submitting protocols can

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<sup>30</sup>Yulian, F. C., & Rasji, R. (2024). Dinamika Permasalahan Ahli Waris dalam Penyerahan Protokol Notaris Meninggal Dunia. *UNES Law Review*, 4(4), 10590-10597.

<sup>31</sup>Susilawati, S. (2024). *TANGGUNG JAWAB NOTARIS TERHADAP PEMBUATAN SURAT WASIAT PEMBERIAN ORGAN TUBUH YANG DIBUAT DIHADAPANNYA DITINJAU DARI UNDANG-UNDANG JABATAN NOTARIS* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

result in these documents not being properly maintained, which in turn can be detrimental to society as a whole. People who need these documents for legal purposes will not get the necessary access, so their rights will be neglected. The absence of clear sanctions for heirs who do not submit notary protocols on time indicates weaknesses in the existing legal system. This creates the impression that these obligations are not regulated seriously, which can reduce public trust in the legal system and the integrity of notaries. Without sanctions, heirs may feel there are no consequences for them if they do not fulfill these obligations. This can create confusion regarding legal responsibilities and reduce compliance with existing regulations.<sup>32</sup>

The absence of effective sanctions for delays in submitting notary protocols by heirs can have significant negative impacts, including legal uncertainty, losses for related parties, and a decline in the integrity of the legal system. Delays in submitting the notarial protocol by the heirs can cause a number of serious problems, especially because there are no sanctions regulating this obligation. In this context, it is important to understand the implications of the situation and the need for proactive action from the Regional Supervisory Council (MPD). Delays in submitting notary protocols by heirs can occur due to several factors, such as lack of knowledge, indifference, or ignorance regarding the procedures that must be followed. Even though there are provisions in Law No. 30 of 2004 concerning the Position of Notaries (UUJN) which regulates the obligation of heirs to submit protocols, there are no clear sanctions for those who do not carry out this obligation. This leads to a situation where heirs may feel there are no legal consequences they will face if they do not submit the protocol on time.<sup>33</sup>

Delays in submitting protocols can hamper various legal processes that require these documents. Notarial protocols contain deeds and important documents needed to resolve legal matters, such as dividing inheritance and making new deeds. Uncertainty regarding the existence of notary protocols can disrupt legal certainty for parties who need access to these documents. This can cause disputes at a later date. Notary protocols that are not managed properly are at risk of being lost or damaged. If important documents are not handed over to the receiving notary, there is a possibility that the documents will not be properly preserved. In the absence of clear sanctions for heirs who are late in submitting notary protocols, MPD needs to take a proactive stance to ensure that the handover process runs smoothly. Some steps that MPD can take include:<sup>34</sup>

1. Education and Outreach: MPD can carry out educational programs to increase heirs' awareness of the importance of submitting notary protocols and existing legal obligations. With better understanding, it is hoped that heirs will be more motivated to fulfill their obligations.

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<sup>32</sup>Jurdi, F. (2022). *Etika Profesi Hukum*. Prenada Media.

<sup>33</sup>ANGGRAENI, G. P. D. (2023). *PRINSIP PERTANGGUNGJAWABAN HUKUM BAGI NOTARIS YANG TELAH MENINGGAL DUNIA TANPA ADANYA AHLI WARIS DALAM PENYERAHAN PROTOKOL NOTARIS MENURUT PERATURAN MENTERI HUKUM DAN HAM* (Doctoral dissertation, Universitas Panca Marga).

<sup>34</sup>Maharani, I. (2022). Peranan Majelis Pengawas Daerah (Mpd) Terhadap Penyerahan Protokol Notaris Setelah Notaris Meninggal Dunia Di Kota Pekanbaru.

2. Monitoring and Supervision: MPD needs to carry out stricter supervision of the protocol submission process. This includes monitoring heirs who do not immediately submit protocols and providing warnings if necessary.

3. Policy Development: The MPD may propose changes in the regulations to include sanctions for heirs who do not fulfill the obligation to submit the protocol. This will provide additional encouragement for heirs to act in accordance with applicable regulations.

4. Coordination with Related Parties: MPD can collaborate with other institutions, such as ministries or legal institutions, to strengthen supervision and law enforcement regarding the submission of notary protocols.

Delays in submitting notarial protocols by heirs are a significant problem, especially because there are no sanctions regulating this obligation. Therefore, MPD needs to take proactive steps to ensure that the process of submitting notary protocols runs well and in accordance with applicable legal provisions. By increasing awareness and supervision, it is hoped that we can reduce delays and ensure legal certainty for all parties involved. Taking into account the absence of sanctions, there are several recommendations that the author can propose to increase compliance with the submission of notary protocols:

1. A revision of the UUJN is needed to include clear sanctions for heirs who do not submit notary protocols on time. This will provide additional encouragement for heirs to fulfill their obligations.

2. MPD and related institutions need to provide outreach and education to the public regarding the importance of submitting notary protocols and the legal consequences that may arise if this obligation is not fulfilled.

3. The MPD needs to be empowered to carry out stricter supervision and provide warnings to heirs who do not fulfill the obligation to submit protocols.

The legal provisions governing delays in submitting notary protocols by heirs in Indonesia still have shortcomings, especially in terms of sanctions. The absence of sanctions can result in delays and non-compliance, which has a negative impact on legal and administrative processes. Therefore, there is a need for regulatory changes and outreach efforts to increase awareness and compliance with the obligation to submit notary protocols.

#### **4. CONCLUSION**

The Role of the Regional Supervisory Council in Supervising the Submission of Notarial Protocols by Heirs. The Regional Supervisory Council (MPD) has a very important role in supervising the process of submitting notarial protocols by heirs. The MPD is responsible for receiving notification regarding the notary's death, appointing the notary recipient of the protocol, and ensuring that the delivery of the protocol is carried out in accordance with applicable legal provisions. In carrying out this task, MPD carries out supervision which includes checking and verifying documents, as well



as providing direction to heirs to ensure that all procedures are followed correctly. The Impact of the Absence of Sanctions on Delays in Submitting Notary Protocols by Heirs, the absence of effective sanctions for heirs who are late in submitting notarial protocols can have a significant negative impact. Legal uncertainty regarding the status of documents can hamper legal and administrative processes, as well as cause material losses for parties who need access to these documents. In addition, the absence of sanctions creates weaknesses in law enforcement, which can reduce public trust in the legal system and the integrity of notaries.

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