

Principles of Recognizing Service Users for PPAT According to ATR/KBPN Ministerial Regulation Number 21 of 2022

Muhammad Farhan Ahsani

Faculty of Law, Universitas Islam Sultan Agung (UNISSULA), Semarang, Indonesia,
E-mail: Muhammadfarhanahsani.std@unissula.ac.id

Abstract. *In addition to the duties and authorities in the PPAT, there are also additional obligations that need to be known, one of which is the obligation to apply the Principle of Recognizing Service Users as a form of Prevention and Eradication of Money Laundering Crimes. In order to implement the principle of recognizing service users, PPAT is required to report all forms of financial transactions that are considered suspicious transactions carried out by service users to the Financial Transaction Reporting and Analysis Center. The writing of this journal uses normative legal research methods that refer to library materials as research materials using a statutory approach. Laws and regulations related to the theme of this journal as primary legal materials are PPAT Position Regulations, ATR/KBPN Ministerial Regulations No. 21 of 2022 and PP No. 43 of 2015, secondary legal materials in the form of research results, journals and theories related to discussions in this journal journals and tertiary legal materials in the form of electronic media and legal dictionaries. ATR/KBPN Ministerial Regulation Number 21 of 2022 requires PPAT to exercise additional authority, namely by implementing the principle of recognizing service users other than those specified by the PPAT Position Regulation. PPAT is mandatory to apply the principle of recognizing service users, because PPAT is one of the professions that must report based on Article 3 of PP No. 43 of 2015 for the Prevention and Eradication of Money Laundering. Based on the discussion, a conclusion was produced stating that the application of the principle of recognizing service users is not related to the authority of PPAT in making an authentic deed but binds the authority of PPAT obtained by attribution. This is because in the application of the principle of recognizing PPAT service users, they are asked to explore information in the form of service user identity and the acquisition of sources of funds which will later be reported to PPATK.*

Keywords: Land; Laundering; Money.

1. Introduction

The role of PPAT in service services is as an official authorized by the state to serve the community in the civil sphere, especially making authentic deeds. The development of the existence of PPAT is very important in the community because it is a general official who is given the task and authority to provide general services in certain and special fields, such as making deeds. In this case, it is to provide legal certainty to the community in making authentic deeds.¹ The main task of PPAT in carrying out some land registration activities is to make a deed as evidence of certain legal acts regarding land rights or property rights to flats in order to carry out its duties. With the position of PPAT as a general official, the deed made is given the status of an authentic deed.

In addition to the duties and authorities in the PPAT, there are also additional obligations that need to be known, one of which is the obligation to apply the Principle of Recognizing Service Users as a form of Prevention and Eradication of Money Laundering Crimes. Based on the results of research published by the Center for Financial Transaction Analysis and Reporting (PPATK),. First, it is known that a person who has the position of advocate, Notaries, PPATs, accountants, and financial planners are vulnerable to being used by money laundering criminals to hide and disguise the origin of wealth that is the result of crime by taking refuge behind the legal rules of each profession mentioned above. Second, the reporting obligation by professional actors has been implemented by several countries and has had a positive impact on the prevention and eradication of money laundering crimes. Third. To provide legal protection to the reporting party, in this case, the PPAT, from lawsuits.²

In order to implement the principle of recognizing service users, PPAT is obliged to report all forms of financial transactions that are considered suspicious transactions carried out by service users to the Financial Transaction Reporting and Analysis Center (hereinafter referred to as PPATK). However, PPAT's obligation to report suspicious financial transactions carried out by its service users is not in line with PPAT's obligation to keep the contents of the deed confidential, including the identities of the parties in making the deed, as stated by PPAT under the oath of office to keep the contents of the deed confidential in accordance with Article 11 paragraph (1) of the Regulation of the Minister of

¹ HS Salim, 2006, *Land-Deed Making Techniques Land Deed Making Officials*, Rajawali Pers, Jakarta, p. 87.

² Norman Edwin Elnizar, 3 Agust 2017, "PPATK Ensures Notaries Must Report Not Violating Position Secrets", <https://www.hukumonline.com/berita/a/ppatk-yakinkan-notaris-wajib-lapor-tak-langgar-rahasia-jabatan-lt59828c86b30d3> retrieved February 17, 2024.

Agrarian State Head of BPN Number 4 of 1999 concerning the Regulation of the Position of Land Deed Making Officers.³

Kewajiban The obligation of PPAT to report suspicious financial transactions that can be considered money laundering will be difficult to fulfill, considering that one of the obligations of PPAT is to maintain the confidentiality of everything related to its actions. Although Article 87 paragraph 1 of the Law on the Prevention and Eradication of Money Laundering stipulates that whistleblowers suspected of committing money laundering crimes cannot be prosecuted criminally or civilly, in carrying out their position, PPAT will certainly maintain good relations with users and services; otherwise, this regulation will be difficult to enforce. This makes the author interested in conducting research to determine the extent to which the application of the Principles of Recognizing Service Users by PPAT in the implementation of roles and responsibilities is associated with efforts to prevent and eradicate money laundering, as well as to review and analyze the relationship based on the theory of authority and legal certainty for PPAT in the application of the Principles of Recognizing Service Users.

The Land Deed Making Officer must always be careful when taking legal action so that, before making a decision, the PPAT examines all relevant facts that it considers in accordance with applicable laws and regulations. All evidence or documents submitted to the PPAT must be checked for completeness and validity, and statements or statements from the parties must be heard as a basis for entering into the deed. If the PPAT is not careful in checking material facts, it means that the PPAT is acting carelessly.⁴

The precautionary principle is a principle that requires PPAT to apply prudence in carrying out its functions and positions in order to protect the interests of the community entrusted to it. The purpose of implementing the precautionary principle is to ensure a high level of public trust in PPAT so that people will use PPAT services voluntarily and without hesitation. Taking action and preparing for action must be carefully considered.

One form of the government's seriousness in dealing with money laundering is to form PPATK. Furthermore, in the Regulation of the Minister of ATR/KBPN Number 21 of 2022 concerning the Application of the Principle of Recognizing Service Users for PPAT in Article 2 paragraph (1), PPAT must apply the principle of recognizing service users. One way of applying the principle of service users for

³ Indrawati Pratiwi Natsir et al. (2022). "Application of the principle of recognizing service users by land deed officials". *SUPREMASI: Journal of Thought, Social Sciences Research, Law, and Its Teaching*, 17(2): 235.

⁴ Darus M. Lutfan Hadi, 2017, *Notary Law and Responsibilities of Notary Offices*, UII Pres, Jakarta, p. 39.

PPAT is service user identification, service user verification, and monitoring service user transactions, as regulated in this regulation in Article 2 paragraph (2).

2. Research Methods

The type of research raised in this journal is normative juridical research, which focuses on legal logic from a normative point of view in the sense that the problems raised, discussed, and explained in research focus on applying rules by examining formal legal rules such as laws, which are theoretical in nature in the literature, and then connecting them with questions that are the topic of discussion.⁵ This journal has research specifications that embrace descriptive analysis using data sources derived from primary, secondary, and tertiary legal materials. Laws and regulations related to the theme of this article are primary legal materials, namely PPAT Position Regulations, ATR/KBPN Ministerial Regulations No. 21 of 2022, and PP No. 43 of 2015; secondary legal materials in the form of research results; journals and theories related to the discussion in this journal article; and tertiary legal materials in the form of electronic media and legal dictionaries. In this journal, various data collection techniques are used, namely: field research, library research, and document research.

3. Results and Discussion

3.1. Roles and Responsibilities of PPAT Recognizing Service Users According to ATR/KBPN Ministerial Regulation Number 21 of 2022.

Regulation of the Minister of ATR/KBPN Number 21 of 2022 concerning the Application of the Principle of Recognizing PPAT Service Users. Require PPAT to exercise additional authority, namely by identifying, verifying identity, legality, and monitoring transactions of service user sources of funds used in making and drafting deeds other than those stipulated by Government Regulation Number 24 of 2016 concerning Amendments to Government Regulation Number 37 of 1998 concerning Regulations of Land Deed Making Officials. In carrying out its duties, PPAT only legally recognizes its presence in a formal sense, in accordance with the provisions of laws and regulations, and the face or user of PPAT services only needs to provide PPAT with an identity document as his own. If the PPAT is in doubt, he can ask the person concerned to provide other proof of identity, such as family cards, driver's licenses, passports, and others. These other identities remain formal personal identities or are recognized by law, so the principle of recognizing service users by PPAT is only a formality.

⁵ Johnny Ibrahim, 2006, *Theory and methodology of normative legal research*, bayumedia publishing, Malang, p. 57.

In this regulation, PPAT must determine the correctness of the legal identity material and monitoring of service user transactions in accordance with Article 2 paragraph (2) of the Regulation of the Minister of ATR/KBPN Number 21 of 2022, which outlines: "The Principles of Recognizing Service Users as referred to in paragraph (1) at least contain: (a) identification of service users; (b) verification of service users; and (c) monitoring of service user transactions." Article 2 paragraph (4) says, "PPAT who conducts business relations as referred to in paragraph (3) point (a) must understand the profile, purpose, and transactions carried out by J Users and Beneficial Owners through identification and verification." It explains that this shows that PPAT must also actively study further the profile of the facers, the purpose and objectives of business relations, and transactions carried out by the facers, where other ways of PPAT to identify service users are more materialistic.

Regarding the obligation of the PPAT to keep the deed confidential, which is also regulated in the PPAT oath of office, in accordance with Article 11 paragraph (1) of the Regulation of the Minister of Agrarian State Head of BPN Number 4 of 1999 concerning the Regulation of the PPAT Position, in general, the PPAT is obliged to maintain the contents and information obtained during the preparation of the PPAT deed, unless otherwise ordered, because according to the law, on the contrary, the PPAT is not obliged to keep it confidential and provide the necessary information regarding the making of the deed. Therefore, PPAT has an essential right of denial. If there is a problem with the PPAT against the deed made by him, he has the right not to answer the judge's question. If the testimony given by the PPAT is in accordance with what is stated in the deed, This right of denial is void when faced with the Corruption Act. Nothing shall be promised, directly or indirectly, to any person under any name or pretext relating to the granting of money for an appointment in a particular territory.⁶

Based on the explanation above, if it is related to the theory of legal certainty, the regulations in Government Regulation Number 43 of 2015 that regulate the profession of PPAT professions that are required to report money laundering crimes are considered a form of legal certainty given to PPAT in order to provide legal protection to PPAT that applies the principle of recognizing service users.

Sudikno Mertokusumo believes that legal certainty is very important to ensure the law is applied correctly. Because legal certainty is now a component of every legal system, of course, written legal norms are the most important. In essence, the purpose of applying the law is to achieve certainty. This legal certainty is

⁶ Ismail et al., (2021). "Notary Obligation to Recognize Service Users in Efforts to Prevent Money Laundering by Corporations". *Syntax Idea*, 3(10): 2143.

transformed into a social order that is essentially related to the concept of certainty.

Based on the explanation above, it can be concluded that PPAT is mandated to adhere to the principle of recognizing service users because PPAT is part of the profession that is obliged to report according to Article 3 PP Number 43 of 2015 to prevent money laundering. This does not violate the provisions of Article 11 paragraph (1) of the Regulation of the Minister of Agrarian State, Head of BPN Number 4 of 1999 concerning PPAT Position Regulations. This allows PPAT to report to the authorities any proven money laundering crimes. The reporting obligation related to PPAT is intended to protect PPAT from suspicious financial transaction (TKM) crimes, as stated in Article 43 of the 2015 Number, which prioritizes justice and happiness.

Therefore, if there are still traffickers using PPAT services to hide the origin of funds derived from criminal acts, PPAT is not considered a facilitator of trafficking perpetrators in order to conceal or disguise the true origin, location, distribution, transfer of rights, or ownership of property if the PPAT knows or has reason to suspect that it is the result of a criminal act.

3.2. PPAT Obligation to Recognize Service Users as a Form of Prevention and Eradication of Money Laundering

With the increase in money laundering crimes, PPAT must be careful when receiving and reviewing documents and information. The main characteristic of money laundering is that it is a criminal act in the form of money laundering, which is carried out many times as a follow-up crime. The original crime is called predictive defense or core crime, or unlawful acts, namely the original crime or unlawful activity that produces money and is then carried out in the process of money laundering.⁷

The government has tried to prevent and eradicate money laundering through the acquisition of assets in the form of land and buildings. One of the efforts to prevent and eradicate money laundering is through making regulations that require one party to report suspected money laundering to other parties. This hinders the preparation of a deed of transfer of land rights to PPAT, who is suspected of committing money laundering crimes, to be entitled to be responsible for his position. Based on Government Regulation Number 43 of 2015 concerning the Reporting Party in the Prevention and Eradication of Money Laundering, it is regulated that the reporting party must be at least an advocate,

⁷ Munir Fuady, 2013, *Debt Guarantee Law*, Erlangga, Jakarta, p. 36.

notary, land deed-making official, accountant, public accountant, or financial planner.

Given that parties directly involved with criminals who want to commit money laundering are important parties in preventing and eradicating trafficking, these parties are also important parties in detecting and tackling money laundering crimes. The purpose of the reporting party in the prevention and eradication of trafficking is very important because the PPTPPU Law mandates several main responsibilities that must be carried out by the reporting party. The first responsibility is that the person in charge of reporting must follow the principle of knowing service users (*Know Your Consumer*). By following the principle of recognizing service users, parties involved in reporting are required to recognize and verify service users. The second responsibility is that the whistleblower must report any suspicious financial transactions that occur among service users.⁸

PPAT is required to submit suspicious financial transactions to PPATK based on Article 8 of Government Regulation Number 43 of 2015. This will help PPAT avoid being prosecuted for money laundering. This can be a dispute in the future. The actions of PPAT as a trusted general official must have strong evidence of the deed he made, and PPAT is a general official who is authorized to carry out certain legal actions regarding land rights or property rights to flats. If the dispute is finally resolved through the court, it must follow the laws and regulations regarding the PPAT position.

The obligation of PPAT to follow the principle of recognizing service users comes from the content of certain provisions of laws and regulations, namely Government Regulation Number 24 of 2016 concerning Regulations for the Position of Land Deed Making Officials and Regulation of the Minister of ATR/KBPN Number 21 of 2022. This is in line with the statement of H.D. van Wijk and Willem Konijnenbelt, who argue that the authority given to the government through the transfer of power can be achieved in various ways. The first attribution is the authority of the government given by lawmakers (legislator products) to government agencies. The *legislator products* are divided into: 1) *Original legislators*, namely the MPR, which produces a product of a constitution; the DPR produces a law; and the DPRD and local government produce a regional regulation. 2) *Delegated Legislator*, consisting of government regulations and presidential decisions and regulations determined by the President in accordance with the provisions of the laws and regulations.

⁸ Fithriadi Muslim. (2013). "The Function of Suspicious Financial Transaction Reports in the Prevention and Eradication of Money Laundering". *Journal on Anti Money Laundering*, 1(1): p. 15.

So it can be concluded that the application of the principle of recognizing service users is another form of authority related to PPAT, which is outside the Land Deed Making Officer Regulation obtained through authority by attribution. This comes from the concept of assistance to the government in eradicating money laundering (TPPU).

4. Conclusion

The purpose and importance of PPAT in identifying and verifying service users, according to the author, is that PPAT must follow the principle of recognizing service users (know your consumer). By using the concept of recognizing service users, PPAT can identify and verify service users. This is done to determine the profile and transactions of service users, and PPAT is not involved in determining the material authenticity of the identity or legality of the face. The PPAT is only mandated to determine the formal requirements according to the PPAT Department Regulations, with the parties' introduction to the deed sufficient to be channeled or introduced to be considered as a condition of the deed as an authentic deed. If this continues to be done, the relevant PPAT must conflict with several articles in the PPAT Position Regulation, especially Article 11 paragraph (1) of the Regulation of the Minister of Agrarian State Head of BPN Number 4 of 1999 concerning PPAT Position Regulations. Before carrying out his position, PPAT must swear. Furthermore, not only that, violations of office confidentiality can be subject to criminal sanctions, namely as stipulated in Article 322 of the Criminal Code. The Criminal Code itself also explains the justification that if the ATR/KBPN Ministerial Regulation is not implemented, namely Article 50, no punishment is given to anyone taking action to carry out the provisions of the law.

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