

## Legal Implications of the Notary Honour Council's Approval on the Summoning of Notaries by Law Enforcers

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### Abstract:

#### Purpose:

The approval of the Notary Honour Council (MKN) has legal implications in the summoning of notaries. However, several cases have raised legal debates regarding the authority of MKN, as well as the potential for conflicts of interest. Therefore, it is necessary to investigate: how the legal regulation of MKN approval is when summoning a notary by law enforcement, and what the legal implications of MKN approval are on the status of notaries in the process of investigation and investigation. The objectives of this research are general and specific.

#### Methodology:

This research is also classified as a type of normative legal research. This research uses a statutory approach, concept approach, and case approach. The data used in this research is secondary data consisting of primary, secondary, and tertiary legal materials and supported by interview data from sources.

### Findings:

Based on the results of the research, it is known that there are regulations that become the juridical basis for summoning notaries by law enforcers, namely Law Number 30 of 2004 concerning Notary Position, which was last amended in Law Number 2 of 2014 and Permenkumham Number 17 of 2021. Based on these regulations, the procedures and mechanisms in requesting/requesting MKN approval are: First, submission of a request by law enforcement officials to MKN regarding the collection of photocopies of the Minute of Deed and summoning Notaries. Second, examination and decision-making by MKN.

### Implication:

In addition, the results also show that approval or rejection from MKN has legal implications in the law enforcement process. If the Examining Council approves, then the notary is obliged to: provide a photocopy of the deed minutes and/or the required letter to law enforcement, accompanied by the minutes of delivery and must fulfil the summons. However, if MKN refuses, then law enforcement cannot make efforts to take a photocopy of the Minute of Deed and cannot make efforts to summon the notary.

## INTRODUCTION

The position of Notary is one of the positions mandated by the Law as a form of Indonesia as a State of Law. Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN) which has been amended by Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary (hereinafter referred to as UUJN-P) regulates matters relating to the authority of the Notary, Obligations, Prohibitions, and even procedures implementation of the Notary Position itself (Anand, 2018). The provisions of Article 1, number 1 of UUJN-P stipulate, "Notary is a public official authorised to make authentic deeds and has other authorities as intended in this Law or based on other laws". Based on this provision, a Notary is a public official authorised to make authentic deeds to the extent that the making of certain authentic deeds is not reserved for other public officials.

The provisions regarding authentic deeds are regulated in Article 1868 of the Civil Code (hereinafter referred to as the Civil Code), which stipulates "An authentic deed is a deed made in the form prescribed by law, made by or before public servants authorised to do so, in the place where the deed is made". The making of authentic deeds

is required by legislation in order to create certainty, order, and legal protection (Setiawan, 2017). In addition to authentic deeds made by or before a Notary, not only because laws and regulations require it, but also because it is desired by interested parties to ensure the rights and obligations of the parties for the sake of certainty, order, and legal protection for interested parties as well as for society as a whole.

Notary in carrying out the duties of his position as mandated by the Law, namely making authentic deeds, Notary has the authority as stipulated in the provisions of Article 15 paragraph (1) of UUJN-P which stipulates, "Notary has the authority to make authentic deeds regarding all actions, agreements and stipulations required by laws and regulations and or desired by the interested parties to be stated in an authentic deed, guarantee the certainty of the date of making the deed, keep the deed, 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 ". Article 15 paragraph (2) of UUJN-P also stipulates, "in addition to the authority as referred to in paragraph (1), Notary is also authorised to: a. certify signatures and determine the certainty of the date of letters under the hand by registering in a special book or legalisation; b. record letters under the hand by registering in a special book or *waarmerking*; c. make photocopies of original letters under the hand. Photocopy of the original letter under hand in the form of a copy containing the description as written and described in the letter concerned or copie collationee; d. attestation of the suitability of the photocopy with the original letter or legalisation; e. provide legal counselling in connection with the making of deeds; f. make deeds relating to land; or g. make deeds of minutes of auction." Article 15 paragraph (3) of the UUJN-P stipulates, "In addition to the authorities as referred to in paragraphs (1) and (2), Notaries have other authorities regulated in laws and regulations."

The above provisions illustrate that the office of Notary is an office born by law, so that the implementation of the office of Notary is protected by law as well as its legal products (Wiradiredja, 2015). The Notary Deed as one of the legal products of the implementation of the Notary position by the legal system of evidence is given the position of an authentic deed, namely perfect written evidence, in the sense that the Notary deed is recognised and accepted by law as evidence to prove the truth about the legal acts or events described in it without the need for other evidence, such as witnesses, confessions, oaths as evidence known in the law of evidence (Juanda, 2016).

Notary, as a public official, has the authority to make authentic deeds and other documents as determined by laws and regulations. The preparation of notarial deeds is one of the most important tasks that must be carried out by notaries as officials authorised by the state to prepare, maintain and supervise notarial deeds (Wardana et al., 2023). Fulfilling this, it is necessary to pay attention to the obligations that bind the position of Notary, which ensures that the Notary is protected from all potential problems that will arise both during the office and in the future. The obligations of a Notary have been regulated in the provisions of Article 16 of UUJN-P, which stipulates that every Notary must act trustworthy, honest, thorough, independent, impartial, and able manner to safeguard the interests of the parties closely related to legal acts. The emphasis on each element above is actually to close the space for any problems that may occur. If the Notary is able to comply, of course, the authority exercised will be maintained and receive legal protection. It should be further understood that every obligation that the Notary must fulfil will be a limitation as well as self-protection for the Notary in serving the public.

Carrying out this honourable profession, a Notary does not merely pour the will of the parties into an authentic deed. Starting from receiving a client to various preparations, a Notary really has to understand their capacity, and stick to the elements of trustworthiness, thoroughness, and caution. The identification and verification carried out must go hand in hand with caution and thoroughness (Paramaningrat et al., 2018). Closing all gaps in the possibility of cases, both civil and criminal, is very important to implement. What is contained in the beginning and end of the deed, which is the responsibility of the notary, is an expression that reflects the actual circumstances at the time of making the deed (Made & Indrasari, 2023). If it is not careful in providing legal counselling and has an impact on expressing the will of the parties, it will certainly have the potential to provide legal uncertainty and defects in legal products made by the Notary. Even though the Notary has been careful, trustworthy, and honest, it is still possible that it will be disputed if there are problems between the parties. So that

the demand to act trustworthy, careful, and honest from the beginning is able to become a basic filter for Notaries. It is also closely related to the balanced rights that will be obtained by the parties in every legal action / legal event carried out before the Notary (Salamah & Iriantoro, 2022).

The next obligation of a Notary, as an effort to protect himself and his position, is to protect the interests of the parties involved in legal acts. Safeguarding the interests referred to here is not only facilitating the will of the parties contained in an authentic deed. However, it also ensures that the desired legal act is in accordance with the laws and regulations, not only benefits one of the parties, and clearly the Notary does not enter into the parties.

It proves that UUJN-P has accommodated all forms of legal actions that can be carried out by Notaries, starting from making legal products in the form of authentic deeds in the form of Minuta Akta, or original deeds, attaching various supporting documents and fingerprints, in accordance with the provisions that have been determined on the required documents. Laws and regulations determine various services. Including the obligation to keep confidential all forms of information, directly or data, documents, based on the oath/pledge of office, unless the laws and regulations determine otherwise. It also includes the obligation of the Notary in reading out the deed that has been made (Salim, HS, 2021). This will be closely related to the suitability between the will of the parties, legal advice provided by the Notary, and the resulting product. Keep in mind that Notary deeds must be single interpretation, meaning a single meaning. Thus, the Notary can avoid all legal problems that can ensnare him. If a Notary violates the obligations that have been regulated, sanctions will be imposed in the form of written warnings, temporary dismissal, honourable dismissal, and dishonourable dismissal.

In carrying out their obligations as public officials, Notaries must comply with the prohibitions that have been regulated by both UUJN-P and the Notary Code of Ethics. Article 17 of the UUJN-P expressly regulates the prohibitions for Notaries, which stipulates that Notaries are prohibited from: a. carrying out positions outside their area of office; b. leaving their area of office for more than 7 (seven) consecutive working days without a valid reason; c. concurrently serving as a civil servant; d. concurrently serving as a state official; e. concurrently serving as an advocate; f. concurrent position as a leader or employee of a state-owned enterprise, regionally-owned enterprise or private enterprise; g. concurrent position as a Land Deed Official and/or Class II Auction Officer outside the Notary's domicile; h. become a Substitute Notary; or i. perform other work that is contrary to religious norms, decency, or propriety that may affect the honour and dignity of the office of Notary.

The above regulation, especially in letter i, explicitly confirms the prohibition for Notaries to carry out any other work that deviates from norms, decency, which will ultimately affect the honour and dignity of Notaries. Norms and propriety will guide the behaviour of a public official, so that they are able to exercise their authority in the best and most professional manner. What is meant by propriety is that, although it is not stated in the laws and regulations, it is not necessarily allowed to be implemented by the Notary. For this reason, care in serving clients must always be carried out; this is a reference in every making of authentic deeds (Abdulkadir, 2006).

Furthermore, in detail the prohibitions for a Notary are also regulated in Article 4 of the Notary Code of Ethics, with the provision of 17 Figures, each of which broadly regulates the office of a Notary, signage, publication and self-promotion, Cooperation with other prohibited parties, signing deeds that have been previously prepared by other parties, sending minutes without the presence of a Notary, bringing in clients with various efforts and endeavours, coercion in the form of withholding documents, determining the honorarium to be paid, hiring other Notary employees, damaging the reputation of fellow Notary colleagues, forming certain groups, not following the rules for making deeds within reasonable limits, and participating in auctions to obtain new transactions. These prohibitions mean that absolutely nothing should be done by a Notary. However, the complicated problem in practice that often occurs is the presence of parties who use this prohibition provision as a means of undermining the honour and dignity of the Notary. It is where integration between the Notary and related parties is needed, ensuring that the dignity of the Notary is maintained, including the important role of the Notary Honour Council (Muhjad, 2018).

In carrying out their duties, a Notary will certainly comply with the applicable laws and regulations, but to implement the principle of prudence regarding the profession of the Notary position, it is necessary to establish a body that broadly has the duties, functions, and authority to foster Notaries regarding the function of the Notary Honorary Council itself. Article 1 point 1 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 17 of 2021 concerning Duties and Functions, Requirements, and Procedures for Appointment and Dismissal, Organisational Structure, Work Procedures, and Budget of the Notary Honorary Council (hereinafter referred to as Permenkumham No. 17 of 2021) has provided the following definition of the Notary Honorary Council: "The Notary Honour Council is a body that has the authority to carry out the guidance of Notaries and the obligation to give approval or rejection for investigation and judicial proceedings, for taking photocopies of deed minutes and summoning Notaries to appear in examinations related to deeds or Notary Protocols that are in the Notary's storage." When viewed from the above Article, the Notary Honour Council was deliberately formed not only to provide guidance but also to carry out its obligation to give approval or rejection regarding the interests of the investigation and judicial process. In addition, it is also about approval or refusal regarding the taking of photocopies of deed minutes and letters related to deeds in the Notary's storage.

An authentic deed cannot be equated with a deed under the hand, the difference can be seen from the deed under the hand is not made by a public official, and only signed by the parties, so that if one party denies it, the evidentiary power of the deed under the hand is not perfect (Sanjaya & Widiati, 2020). Notary in making an authentic deed is intended for probationis causa, meaning that the making of an authentic deed is deliberately to be a means of proof. However, some of the current problems that often ensnare Notaries are closely related to the deed made as evidence. When a lawsuit occurs, law enforcement considers that some notarial deeds are not causa formalities, or a legal act is declared complete and perfect (Mertokusumo, 1999).

Nowadays, in reality, it is not uncommon to find in practice in the field legal issues related to the implementation of the office of Notary, such as a lawsuit against Notary related to the process of making not in accordance with what has been regulated in UUJN and UUJN-P, as well as a lawsuit against Notary related to the authenticity of the deed made on the grounds that the deed does not contain the truth according to the documents and information provided by the parties. There is also a criminal lawsuit against the Notary with the argument of participating in a criminal offence, embezzling tax money deposited by the parties for the benefit of the continuation of the file in the process of changing the name of the certificate, and even making a fake deed / false statement into an authentic deed (Enggarwati, 2015). With the situation as mentioned above, and in the event of a lawsuit against the Notary filed by the aggrieved party, the investigator, public prosecutor, or judge, for the benefit of the judicial process, can summon the Notary to examine the Notary, or even the Notary Deed and Protocol. Article 70 of the Criminal Procedure Code states, "A conviction shall be nullified if the prosecuting authority withdraws the charge, unless the judge has rendered a verdict." This article relates to the elimination of punishment due to the withdrawal of charges by the public prosecutor or the prosecuting authority, prior to a judge's decision. For example, a notary is accused of providing false information in an authentic deed. If the case reaches the prosecution stage, but then the victim withdraws the charges (and, for example, the prosecutor agrees), before the judge reaches a verdict, then the conviction of the notary can no longer be carried out under Article 70 of the Criminal Procedure Code.

UUJN-P has regulated provisions related to the summoning process of Notaries conducted by investigators, public prosecutors, and judges for the benefit of the necessary judicial process, which is regulated in Article 66 of UUJN-P, which stipulates:

- 1) In the interest of the judicial process, investigators, public prosecutors, or judges, with the approval of the honorary council of Notaries, are authorised to: a. take photocopies of the Deed Minute and/or letters attached to the Deed Minute or Notary Protocol in the Notary's storage; and b. summon the Notary to appear in an examination related to the Deed or Notary Protocol that is in the Notary's storage.



- 2) The taking of photocopies of the Minute of Deed or letters as referred to in paragraph (1), letter a, minutes of delivery shall be made.
- 3) The Notary Honour Council, within a maximum period of 30 (thirty) working days as from the receipt of the request for approval as referred to in paragraph (1), must provide an answer to accept or reject the request for approval.
- 4) In the event that the honorary panel of Notaries does not provide an answer within the period as referred to in paragraph (3), the honorary panel of Notaries shall be deemed to have accepted the request for approval.

Although in the judicial process required by investigators, public prosecutors, or judges related to the summoning of Notaries either to be present in the examination related to the Deed or Notary Protocol in the Notary's storage, as well as taking photocopies of the Deed Minute and/or letters attached to the Deed Minute or Notary Protocol in the Notary's storage requires prior approval from the Notary Honour Council. In Permenkumham No. 17 of 2021 Article 32 and also Article 33 further regulate the granting of approval to investigators, public prosecutors, or judges in taking photocopies of the deed minutes and also summoning Notaries which will be approved if carried out in 5 cases, namely: 1. There are allegations of criminal acts related to the minutes of deeds and/or Notarial documents in the Notary's storage; 2. The right to prosecute has not been waived based on the provisions on expiration in the laws and regulations in the field of criminal law; 3. There is a denial of the validity of the signature of one or more parties; 4. There are allegations of reduction or addition to the minutes of deeds; and/or 5. There are allegations that the Notary has postponed the date (antidatum).

Although 5 points have been mentioned, which are preceded by an examination and decision of the plenary meeting, there is still no clarity regarding the criteria for approval of summoning a Notary. Thus, there needs to be additional criteria to ensure legal certainty. Since the provisions of Article 66 paragraph (3) of UUJN-P and its elucidation have not regulated the criteria that become the basis of consideration for the approval of the summoning of a Notary to be accepted or rejected, when a case occurs over a deed that has been made, this is the beginning of the losses experienced by Notaries when summoned by investigators, public prosecutors, and judges for the benefit of the judicial process. Therefore, it must be explained in detail what reinforcing reasons are the basis for the consideration of the Notary Honour Council to accept that the Notary can be examined for the benefit of the judicial process, both in the UUJN-P and further arrangements.

The example of a case that befell Notary / PPAT Ketut Neli Asih, S.H. and the legal team filed a judicial review at the Supreme Court, which was precisely the decision number 20 PK / Pen / 2020 dated 14 May 2020, which acquitted purely and entirely Notary / PPAT Ketut Neli Asih, S.H., considering that Notary / PPAT Ketut Neli Asih, S.H. With the granting of the judicial review and the Notary being acquitted because the act is not a criminal offence, it is clear that the Notary's position in carrying out his position in this case is materially and immaterially disadvantaged, such as following the judicial process which takes up time, money, and energy, besides that the Notary is also likely to get a bad stigma from the public as if he has become a criminal (Miasa, 2020).

Furthermore, there is a case that happened to notary Wayan Darma Winarta. MKNW Bali Province has carried out its duties based on Article 66 of UUJNP and Permenkumham Number 17 of 2021. Permenkumham Number 17 of 2021 does not specifically explain the object of examination. MKNW Bali Province only focuses on examining the formal requirements of I Wayan Darma Winarta's Notarial Deed. There are three criteria fulfilled to approve, but they are related to the material requirements of the Notarial Deed. It caused the Bali Province MKNW to reject the request from the Police Criminal Investigator. However, even though the application was rejected, the investigators were still able to continue the legal process by confiscating the notarial deed minutes based on permission from the Denpasar District Court Chairman. I Wayan Darma Winarta was subsequently named as a suspect and sentenced to criminal punishment for committing the offences of fraud and document forgery. This case highlights the importance of a clear understanding of Article 66 of the UUJN, particularly regarding the authority of the Notary Honour Council (MKN) in giving approval to the summoning of notaries by law enforcement officials. The article requires that investigators, public prosecutors, or judges must obtain

MKN's approval to summon notaries or take photocopies of deed minutes kept by notaries. However, the application of Article 66 UUJN in the case of I Wayan Darma Winarta shows the potential for legal uncertainty and norm ambiguity, especially in relation to the procedures and criteria that must be met in granting approval by MKN. It may cause obstacles in the legal process and harm interested parties (Septarika & Muhaimin, 2023).

The approval of the Notary Honour Council (MKNW) has important legal implications, especially in the context of summoning notaries for legal proceedings and granting permission to give testimony. MKNW approval is required before a notary can be summoned for questioning by an investigator, public prosecutor, or judge in a judicial proceeding. MKN's decision provides legal certainty for notaries and protects the dignity of the profession. It also ensures that the legal process proceeds according to established procedures. If MKN rejects the summoning request, the notary cannot be summoned arbitrarily, thus reducing the risk for the notary to be involved in the legal process for no apparent reason. The approval of the Notary Honour Council is an important step in maintaining the integrity and legal protection of the notary during the investigation and prosecution process. However, this provision raises various issues in practice. On the one hand, MKN approval is considered important to prevent criminalisation of notaries, and what are the legal implications when a notary fulfils a summons from law enforcement without going through the approval mechanism from the Notary Honorary Council? On the other hand, it also has the potential to hamper the investigation process, especially when there is a refusal or delay in approving by MKN. Some cases have even led to legal debates regarding MKN's authority, as well as the potential for a conflict of interest between professional protection and law enforcement efforts.

This situation raises questions regarding the legal implications of the obligation to obtain MKN approval in the legal process against notaries from the aspect of legal protection. Therefore, more in-depth research is needed on how the legal arrangements for the approval of the Notary Honour Council work when summoning notaries by law enforcement and how the legal implications of the Notary Honour Council's approval on the status of notaries in the process of investigation and investigation.

## METHODS

The type of research used is a type of normative research that aims to find legal rules or legal doctrines to answer the legal problems being studied (Fajar & Achmad, 2013). Normative legal research is conducted by examining the law in the Law Book, which is conceptualised as what is written in the (Soekanto & Mamudji, 2013). This research uses a statutory approach, concept approach, and case approach. The statutory approach is carried out by examining all laws and regulations regarding the legal issues being studied. The laws and regulations examined are not only seen based on the form of legal regulations, but are examined from the content material contained therein (Marzuki, 2008). In the concept approach, legal argumentation to be able to solve the problems raised in the research is carried out by understanding legal notions, legal concepts, and legal principles that have a relationship with the legal issues being studied (Marzuki, 2008). The case approach is an approach that is carried out to analyse, examine and use as a guide for legal problems to resolve legal cases. The research case has similar problems that have permanent legal force. The case approach in normative legal research is intended to study the application of norms carried out in legal practice. Cases that have been decided in jurisprudence on cases that occur are the focus of research (Sunggono, 2015).

This research is also classified as a type of normative legal research. This research uses a statutory approach, concept approach, and case approach. The data used in this research is secondary data consisting of primary, secondary, and tertiary legal materials and supported by interview data from sources. The technique of collecting legal materials in this writing uses Library Research data techniques, which means using library sources. The analysis of the research materials studied is carried out descriptively, namely, verbally describing legal issues that are related and logically relevant. To conduct the analysis, systematic interpretation is carried out, namely linking the relationship between one legal rule and theory or expert opinion with other rules and theories or opinions, so

that a conclusion is drawn in accordance with the purpose of this research. In addition, authentic interpretation is also used, namely the official interpretation given by the Law (Hanitijo, 35 C.E.).

## RESULTS AND DISCUSSION

**A. Legal Arrangements for the Approval of the Notary Honour Council (MKN) in Summoning by Law Enforcers.** A notary is a public official authorised by law to make authentic deeds and perform other legal functions for the benefit of the public. Due to the public trust nature of their duties and closely related to legal protection for the parties, notaries are subject to strict legal rules. One important aspect in the protection of the notary profession is the regulation of the procedure for summoning notaries by law enforcement officials, especially in the context of handling criminal cases.

Therefore, there are several regulations that serve as the juridical basis for the summoning of notaries by law enforcement. There are several objectives for the establishment of regulations on the summoning of notaries by law enforcers. First, the establishment of this regulation is to protect the independence and confidentiality of the notary's office. Notaries are bound by the obligation to maintain the secrets of the office. Without adequate protection, summoning a notary by law enforcement risks revealing confidential information that could harm the parties using notary services. Secondly, this regulation also aims to maintain a balance between the interests of law enforcement and professional protection. The state must ensure that the law enforcement process does not become a tool to suppress or intimidate the notary profession, while also ensuring that law enforcement efforts can continue without disproportionate obstacles. In other words, this mechanism is expected to be a filter so that the legal process runs objectively, fairly, and still respects the principles of professionalism. Third, this regulation also encourages orderly administration and accountability in the investigation process. Law enforcers must follow the prescribed procedures if they want to obtain information from a notary, thus creating transparency and accuracy in the legal process. It also strengthens the integrity of the national legal system and increases public trust in the notary profession and law enforcement agencies themselves. The regulations that serve as the juridical basis for the summoning of notaries by law enforcement are as follows:

**1. Law No. 30/2004 on the Position of Notary, which was last amended by Law No. 2/2014 on the Amendment to Law No. 30/2004 on the Position of Notary (UU JABATAN NOTARIS).** The notary profession is an important part of the legal system in Indonesia, especially in providing legal certainty and protection to the public in various civil matters. To ensure professionalism, integrity, and responsibility in carrying out their duties, notaries are specifically regulated through the Notary Position Law (Notary Position Law). This law was first enacted as Law Number 30 of 2004, and then amended through Law Number 2 of 2014 to adjust to the development of legal practice and the needs of the community.

The Notary Position Law serves as a legal basis that thoroughly regulates the position, authority, obligations, prohibitions, and procedures for the appointment and dismissal of notaries. This law also establishes various important principles, such as the principles of professionalism, accountability, and protection of the confidentiality of information obtained by notaries in carrying out their duties.

One of the important points regulated in the Notary Public Office Law is the protection of notaries, especially when notaries face summons from law enforcement authorities. These arrangements can be found in Article 66 and Article 66A. When grammatically interpreting Article 66, it can be seen that, in the judicial process, investigators, prosecutors, or judges can take photocopies of deed minutes or documents attached to notary protocols, as well as summon notaries for questioning related to the deed. However, this action can only be taken after obtaining approval from the Notary Honour Council (MKN). An official report must accompany the retrieval of the documents. MKN is obliged to give an answer whether to grant or refuse the request for approval within a maximum of 30 working days since the request is received. If there is no response within this period, the request is automatically considered approved.

Article 66 Paragraph (1) letter b also stipulates that law enforcers, through MKN approval, have the right to summon notaries to be questioned regarding the deed. However, the question is the extent of information that law enforcers are entitled to ask since notaries are also bound by the obligation to maintain the secret of the office and the secret of the contents of the deed as stipulated in Article 4 paragraph (2) of the Notary Position Law. Therefore, this is a serious concern for lawmakers in order to form clear and careful regulations.

Furthermore, Article 66A stipulates that as part of the efforts to foster notaries, the Minister establishes the Notary Honour Council (MKN). This Council consists of seven members from three elements, namely three notaries, two government representatives, and two experts or academics. The duties, functions, requirements, appointment and dismissal mechanisms, as well as the structure and work procedures of MKN are further regulated through a Ministerial Regulation.

Based on Law No. 2/2014 on the Amendment to Law No. 30/2004 on the Position of Notary, the authority to approve the request for summoning a notary by law enforcement is the notary honour panel. This arrangement is different from what was previously regulated in Law No. 30/2004 on the Position of Notary because, in Law No. 30/2004 on the Position of Notary, the authority to give approval lies with the regional supervisory board. It can be seen in Article 66 Paragraph (1) of Law Number 30/2004 on the Position of Notary which stipulates that: For the benefit of the judicial process, investigators, public prosecutors, or judges with the approval of the Regional Supervisory Council are authorised to: a) take photocopies of the Deed Minute and/or letters attached to the Deed Minute or Notary Protocol in the custody of the Notary; and b) summon the Notary to appear in an examination related to the deed he/she made or the Notary Protocol which is in the custody of the Notary. The Regional Supervisory Council is part of the supervisory council, which, in Article 1, Point 6 of Law Number 30/2004 on the Position of Notary, is defined as a body that has the authority and obligation to carry out guidance and supervision of Notaries.

After the enactment of Law No. 2/2014 on the Amendment to Law No. 30/2004 on the Position of Notary, the authority to approve the summoning of notaries by law enforcement is the Notary Honour Council (MKN). MKN is an independent body in making decisions that has the duty and obligation to provide guidance or coaching in order to strengthen the Notary institution in enforcing the Notary Position Law for everyone who carries out the position of Notary (Iryadi, 2020). MKN is also seen as closely related to criminal law enforcement. It is because MKN must approve every summoning of notaries by law enforcement. Therefore, the presence of MKN is also expected to assist investigators in determining whether or not there is a criminal element related to the notary deed minutes and protocols (Maya, 2017).

**2. Regulation of the Minister of Law and Human Rights Number 17 of 2021 on the Duties and Functions, Terms and Procedures for Appointment and Dismissal, Organisational Structure, Work Procedures, and Budget of the Notary Honour Council.** As previously explained, the summoning of notaries by law enforcement must be carried out with the approval of MKN. The specific rules governing MKN can be found in the Minister of Law and Human Rights Regulation Number 17 of 2021 on the Duties and Functions, Terms and Procedures for Appointment and Dismissal, Organisational Structure, Work Procedures, and Budget of the Notary Honorary Council.

In order to strengthen the system of guidance and supervision of notaries, the government, through the Ministry of Law and Human Rights, issued Minister of Law and Human Rights Regulation Number 17 of 2021. This regulation specifically regulates the duties and functions, requirements and procedures for appointment and dismissal, organisational structure, work procedures, and budget of the Notary Honorary Council (MKN). The presence of this regulation is a further implementation of the mandate of the Notary Position Law, which places MKN as an important institution in maintaining the dignity and integrity of the notary profession in Indonesia.

In Article 1 Point 1 of Permenkumham Number 17 of 2021, MKN is defined as a body that has the authority to carry out the guidance of Notaries and the obligation to give approval or rejection for investigation and judicial proceedings, for taking photocopies of deed minutes and summoning Notaries to attend examinations related to



deeds or Notary Protocols that are in the storage of Notaries. MKN also organises the task of coaching notaries. Such coaching is conducted for the benefit of the judicial process, investigators, public prosecutors, or judges.

Based on Article 3, MKN consists of: MKN Central and MKN Regional. MKN consists of 3 elements, namely 3 Notary elements, 2 government elements and 2 expert or academic elements. Based on Article 22 Paragraph (1), the central MKN is tasked with carrying out guidance to: a) Notaries in the context of implementing the duties and functions of the Regional Notary Honour Council; and b) Regional Notary Honour Councils related to the duties and functions of the Regional Notary Honour Council. Meanwhile, based on Article 24, the regional MKN is tasked with: a) examining requests submitted by investigators, public prosecutors, or judges; and b) giving approval or rejection of requests for approval to take photocopies of deed minutes and summoning Notaries to attend investigations, trials, prosecutions, and judicial proceedings.

Based on this article, it is known that MKN is the area authorised and tasked with giving pre-approval or rejection of the summoning of notaries by law enforcement. However, specifically, these duties and authorities will be carried out by the examining panel. It is based on Article 17, Paragraph (2), which stipulates that the Regional MKN, in carrying out its duties, forms an Examining Panel and is assisted by the secretariat of the Regional Notary Honour Council.

Based on these two legal regulations, there are several procedures and mechanisms for requesting MKN approval by law enforcers, which consist of:

**1. Submission of a request by the investigator to MKN regarding the retrieval of photocopies of the Deed Minute and/or letters attached to the Deed Minute or Notary Protocol and the summoning of the Notary.** Article 66 paragraph (1) of the Notary Public Office Law stipulates that, in the interest of the judicial process, law enforcement officials - whether investigators, public prosecutors, or judges - can perform two legal actions related to notaries. First, they can request copies or photocopies of the deed minutes and documents that are part of the notary protocol. Secondly, they also have the authority to summon a notary for questioning in an examination related to deeds or documents that are in the custody of the notary.

However, both actions cannot be taken directly without conditions. The main requirement that must be met is the prior approval of the Notary Honour Council (MKN). In other words, MKN functions as an ethical and institutional watchdog that grants permission before law enforcement officials can access or summon notaries in relation to the performance of their official duties.

This arrangement reflects the principle of protection of the office and confidentiality of the notary profession. As a public official who has great responsibility for the validity of authentic deeds and the protection of information entrusted by the parties, notaries cannot be treated like ordinary civilians in the process of legal summons. Therefore, the MKN approval mechanism aims to maintain a balance between law enforcement efforts and the protection of the integrity of the notarial profession.

Based on Permenkumham Article 28 Number 17 Year 2021, a request for approval to take a copy of the notarial minutes or protocol, as well as to summon a notary to provide information related to the deed or document in his/her custody, must be submitted by law enforcers to the Chairman of the Honorary Council of notaries in the authorised region in accordance with the working area of the notary concerned. The request shall be submitted in writing in Bahasa Indonesia, and a copy shall be sent to the Notary concerned. The request must include the name of the Notary, the address of the Notary's office, the deed number and/or letter attached to the deed minutes or the Notary's storage protocol and the subject matter of the alleged case.

**2. Examination and Decision Making by MKN.** Based on Permenkumham Number 17 of 2021, the examination of notaries before MKN to make a decision whether to grant the law enforcer's request or refuse will be carried out by the examining panel. The Examining Panel has the authority to examine, request the required documents, and make minutes of the examination to be decided in the plenary meeting of the Notary Honour Council. Based on Article 29 of Permenkumham Number 17 of 2021, in conducting an examination, the Examining Panel has the authority to summon a Notary based on a request from an investigator, public prosecutor,

or judge. The summoning of a notary must be done officially through a letter signed by the Chairman of the Regional Notary Honour Council. In urgent conditions, the summons can be made in advance by fax or electronic mail, but a written summons must still follow it. The summons must be made at least five days before the date of the examination. The summoned notary must be present in person and is not allowed to send a representative. Suppose the notary fails to comply with the legal and proper summons twice in a row. In that case, the Examining Panel is authorised to decide on the request of the investigator, public prosecutor, or judge.

The Examining Panel gives approval or rejection after hearing direct testimony from the Notary concerned. The statement is stated in the minutes of the examination. Every result of the Examining Council's examination is reported to the chairman of the Regional Notary Honour Council. Furthermore, based on Article 28 Paragraph (3) and Paragraph (4) of Permenkumham Number 17 of 2021, the Chairman of the Regional Notary Honour Council is obliged to respond to the request as intended, either in the form of approval or rejection, within a maximum period of 30 (thirty) days after the request is received. If there is no response within the period, the request shall be deemed automatically approved.

Based on Article 32 of Permenkumham Number 17 of 2021, taking copies (photocopies) of the minutes of deeds and/or letters can only be done under certain conditions. First, if there are allegations of a criminal offence directly related to the minutes of the deed or documents attached to the minutes of the deed or notary protocol that are in the storage of the notary. Second, if the right to prosecute has not expired as stipulated in the provisions of laws and regulations in the field of criminal law. Third, if there is a denial of the validity of the signature of one or more parties stated in the deed. Fourth, in the event that there are allegations that the deed minutes have been reduced or added to the contents. Moreover, fifth, if there are indications that the notary has carried out anti-datum practices, namely, postponing the date in the deed made.

Furthermore, based on Article 33 of Permenkumham Number 17 of 2021, approval to summon a notary by an investigator, public prosecutor, or judge in the interest of the judicial process can only be given under certain conditions firstly, if there are allegations that a criminal offence has occurred relating to the minutes of deeds or other notarial documents stored in the notary protocol secondly, if the right to prosecute is still valid and has not been cancelled based on the rules regarding expiration in criminal law third, if a party denies the validity of the signature contained in the deed fourth, if there are allegations that the contents of the deed minutes have undergone unauthorised reductions or additions. Moreover, fifth, if there is an indication that the notary committed an act of postponing the date (antidatum) on the deed made.

According to the opinion of the resource person, Mr I Nyoman Sumardika, S.H., Mkn, as a member of MKN, if the request for approval submitted by law enforcement does not meet the criteria as stipulated in Article 32 and Article 33, MKN has the right to reject the request for summoning from law enforcement. The rejection can be done because, in essence, law enforcers submit a request for approval to MKN; therefore, on the basis of the request, MKN may grant or refuse. In the opinion of Mr I Nyoman Sumardika, S.H., Mkn, the application should have obtained approval from MKN because the notary himself, based on the Notary Position Law, must keep the deed he made confidential from other parties who are not interested. Therefore, if the notary wants to provide information related to the deed or his position as a public official before law enforcement, it is mandatory to obtain approval from MKN. Suppose the Notary is present to provide information either as a witness or reported in a criminal case without the approval of the Notary Honour Council. In that case, it is beyond the responsibility of MKN itself.

## **B. Legal Implications of the Notary Honour Council Approval on the Status of Notaries in the Investigation and Investigation Processes.**

**1. Status of Notary in the Investigation and Investigation Process Based on Criminal Procedure Law.** In the Indonesian legal system, notaries are public officials who have the authority to make authentic deeds and carry out other administrative functions regulated in the Notary Position Law (UU Jabatan Notaris). However,

in the context of criminal procedure law, the position of a notary becomes unique and full of legal considerations, especially regarding their involvement as a witness, suspect, or expert in a criminal case.

The status of notaries in criminal procedure law does not essentially place them beyond the reach of legal proceedings. Despite his status as a public official, a notary can still be held criminally liable if there are allegations that he committed an unlawful act, both in his capacity as an official and personally. It is a form of implementation of Article 27, Paragraph (1) of the 1945 Constitution, which requires every citizen to have equal status in law and government. In addition, based on Abdulkadir Muhammad's opinion regarding responsibility due to unlawful acts committed due to negligence, a notary, even though he is a public official, if the notary commits negligence or error, the notary must be responsible for the error or negligence.

However, there are special legal protections attached to the office of a notary, especially regarding the confidentiality of the office. Notaries cannot simply be examined as witnesses or asked to submit deed minutes or documents related to notarial deeds without prior permission from the Notary Honour Council (MKN), as stipulated in Article 66 of the Notary Position Law. It is intended to maintain the dignity and independence of the office of notary and protect client confidentiality.

In the practice of criminal procedural law, notaries can be summoned by investigators or prosecutors to provide information. However, if the requested information relates to the contents of a deed or document that is confidential, then the investigator must first apply to MKN for approval. If permission is granted, then the notary can provide information or submit the documents in question.

It is also not uncommon for notaries to be asked to testify as experts, especially in cases concerning the validity of a deed or the process of making it. In this position, the notary provides views based on his expertise, not as a witness to an event that he experienced firsthand.

On the other hand, if there are allegations that a notary has participated in a criminal offence - such as forgery of deeds, abuse of authority, or participation in money laundering - then he can be named as a suspect and processed like any other legal subject. However, procedures are still required in accordance with statutory provisions, including the protection of his rights as an official and citizen. Thus, the status of notaries in criminal procedure law is dualistic: on the one hand, they are subject to criminal law as ordinary citizens, but on the other hand, their position provides certain protections that are specifically regulated to ensure the integrity and independence of their profession. Therefore, the status of notaries in the process of investigation and prosecution under the criminal procedure law consists of 3, namely:

**a. Notary as Witness.** In the legal process based on the Criminal Procedure Code (KUHAP), especially Article 1 Point 26, a notary can be questioned as a witness if the notary knows, hears, sees, or experiences a criminal event that is being investigated or investigated by law enforcement officials. A notary is usually called as a witness when a criminal event is related to a deed he/she has made or a legal event involving his/her client.

The summoning of a notary as a witness, especially in criminal court proceedings, must obtain prior authorisation from MKN. This provision aims to provide legal protection for notaries in the performance of their duties. Such protection is needed to maintain a balance between the notary's obligation to maintain the confidentiality of the deed contents and the needs of law enforcement officials in carrying out the law enforcement process.

In general, referring to Article 112 of the Criminal Procedure Code, investigators can summon witnesses and suspects directly without requiring approval from other parties or officials. Therefore, the provision in Article 66 paragraph (1) of the Notary Public Office Act, which requires approval from the Regional Supervisory Council before summoning a notary, is an exception or special rule that deviates from the general provisions for summoning witnesses and suspects in the Criminal Procedure Code. The same applies to judges when summoning witnesses and defendants, where KUHAP does not regulate the need for approval from other parties.

Notary as a witness can occur both in his position and outside his position. In his position when a notary is called as a witness related to his duties of authority, for example a case related to the deed he made and regarding

the legalisation made in front of him, because it does not rule out the possibility that the legalisation of a notary is called as a witness as long as it is still a duty of his authority, not necessarily a deed. Outside the position of notary, for example, when a notary is called as a witness to a murder case that he saw, the notary is called not because of his position, but is called as a witness who saw the incident and must attend as a good citizen should attend the summons. It must be examined first what the notary is called as, whether as a witness for his position or the notary is called as a witness not because of his position (Dewi, 2024).

**b. Notary as Expert.** Based on Article 1, Point 28 and Article 186 of KUHAP, a Notary can be requested to testify as an expert if his/her testimony is needed to explain technical or legal matters related to his/her authority and expertise, for example, about deed making, notarial procedures, or the validity of a deed.

In this case, the notary does not testify to legal facts or events, but rather gives an opinion based on his knowledge and expertise as a professional. This status is very different from a witness because he is not bound by empirical facts that he sees or experiences directly. When a notary is requested as an expert, the procedure does not require approval from MKN.

**c. Notary as a Suspect.** Based on Article 1, Point 14 of the Criminal Procedure Code and after passing through the investigation and investigation process, a notary can also become a suspect if there is sufficient evidence indicating their alleged involvement in a criminal offence. For example, a notary is suspected of being involved in the forgery of deeds, abuse of authority, or assisting illegal acts such as fraud, embezzlement, and money laundering.

In this case, the notary is processed like any other legal subject who violates criminal law, and he is entitled to self-defence, legal assistance, and the principle of presumption of innocence. However, it must be noted that the summoning and examination of notaries related to their position must first go through the MKN approval mechanism as stipulated in Article 66 of the Notary Public Office Law.

Notaries involved in the legal process at the investigation, prosecution, and trial levels have various rights and obligations. The rights and obligations of notaries in the legal process aim to create a balance between the need for openness in law enforcement and the protection of the confidentiality and professionalism of the office of notary. Notary rights consist of: a) The right to legal assistance: Based on Article 54 of the Criminal Procedure Code, a notary who has been designated as a suspect or defendant is entitled to legal assistance from one or more legal advisors during the time and at every level of examination according to the procedures specified in the Criminal Procedure Code. b) The right to be accompanied by a regional mkn: Based on Article 33 Paragraph (3) of Permenkumham Number 17 Year 2021, Notary has the right to be accompanied by regional MKN in the examination process before investigators, public prosecutors, or judges. This assistance is not intended to obstruct the law enforcement process, but rather to ensure that the examination of the notary is conducted legally, professionally, and in accordance with legal procedures. Notaries must maintain the confidentiality of the office, including information obtained from the parties in the deed-making process. Therefore, when a notary is summoned for questioning, especially regarding the contents of the deed or protocol, approval from MKN is required as a form of legal protection as well as control over information disclosure. c) The right to be treated fairly and without discrimination: This right is based on Article 28I Paragraph (2) of the 1945 Constitution, which requires that everyone, including notaries who are involved in legal proceedings, still have the right to be free from discriminatory treatment. d) The right to maintain the confidentiality of the office: Despite being involved in a legal process, notaries still have the right to maintain the confidentiality of the contents of deeds and documents as stipulated in Article 4 of the Notary Public Office Law. Therefore, a notary cannot carelessly disclose the contents of the deed without permission from MKN. Meanwhile, the obligations of a notary consist of: a) Obligation to comply with the legal process: This obligation is guided by Article 112 of the Criminal Procedure Code, that a notary involved in the legal process, especially as a suspect, is obliged to come to fulfil the investigator's summons for questioning. b) Obligation to provide honest testimony: The notary as a suspect must provide truthful information, not to hide facts, and not to provide false information during the examination process. It is



because, based on Article 116 paragraph (3) of the Criminal Procedure Code, the examination of the suspect is carried out to obtain complete and correct information. c) Obligated to maintain the confidentiality of the office.

Must maintain the confidentiality of the office: Although involved in the legal process, notaries are still bound by the obligation to maintain the confidentiality of the office, especially regarding the contents of the deed and notary protocol. Information regarding the contents of the deed cannot be given without approval from MKN. d) Must comply with professional ethics and examination procedures: Notaries involved in legal proceedings are still bound by the notary code of ethics and may be subject to ethical sanctions by the professional organisation (Indonesian Notary Association) or the Supervisory Council if proven to have violated ethical rules, regardless of the ongoing criminal process. e) Must submit documents if permitted by MKN: Based on Article 66 Paragraph (1) of the Notary Public Position Law, if an investigator requires a deed or certain documents that are in the notary protocol, the notary is obliged to submit them if there is a permit from MKN.

**2. Implications of MKN's Approval or Rejection in the Investigation and Probe Process.** MKN's approval or rejection of the examination request has very significant legal and practical implications in the law enforcement process. On the one hand, MKN's approval allows law enforcement officials to proceed with the examination of the notary, either as a witness or suspect, while maintaining the principles of prudence and respect for the confidentiality of the office. On the other hand, if MKN refuses to approve, then the examination process against the notary cannot continue, and this can have an impact on the continuation of the investigation or evidence in the case being handled. MKN's approval or rejection will be explained further below:

**a. Impact of MKN Approval.** Based on Article 30 Paragraph (3) of Permenkumham Number 17 of 2021, in the event that the Examining Council approves the request of an investigator, public prosecutor, or judge to take a photocopy of the Minute of Deed and/or letters attached to the Minute of Deed or Notary Protocol in the Notary's storage, the notary is obliged to:

- 1) Provide a photocopy of the deed minutes and/or the required letter to the investigator, public prosecutor, or judge; and
- 2) Submit a photocopy of the deed minutes and/or letter with a delivery report signed by the Notary and the investigator, public prosecutor, or judge, witnessed by 2 (two) witnesses.

Furthermore, based on Article 33 Paragraph (3) of Permenkumham Number 17 of 2021, if MKN has approved the request for summoning a notary by an investigator, public prosecutor, or judge, the notary is obliged to fulfil the summons and has the right to be accompanied by MKN in the examination process before the investigator, public prosecutor, or judge.

**b. Impact of MKN Rejection.** If MKN rejects the request of law enforcers, then law enforcers such as investigators, prosecutors, and judges cannot make efforts to collect photocopies of the Deed Minute and/or letters attached to the Deed Minute or Notary Protocol in the Notary's storage. In addition, law enforcers also cannot make efforts to summon the Notary to appear in an examination related to the Deed or Notary Protocol that is in the Notary's storage. However, for certain cases, such as the case experienced by I Wayan Darma Winarta, there is an exception, namely that even though the application is rejected, the investigator can continue the legal process by confiscating the notarial deed minutes based on permission from the Denpasar District Court Chairman.

The rejection by MKN also has an impact from two different sides. The first has the impact of creating obstacles in the law enforcement process because law enforcers will find it difficult to prove criminal elements involving notarial deeds or notary involvement. So that it can cause delays in the investigation, prosecution, or trial process, especially if the notarial deed becomes the main evidence. Notaries, by virtue of their position, have special rights and obligations regarding the confidentiality of deeds. However, a notary acting as an individual/citizen does not have immunity or exemption from the law and is therefore liable if he/she commit a criminal offence.

On the other hand, MKN's rejection also has an impact on the protection of the confidentiality and integrity of the notary's office. This rejection is interpreted as an effort to maintain the confidentiality of the notary position, in accordance with the principle of confidentiality stipulated in Article 4 of the Notary Position Law, namely: Notaries are obliged to keep the contents of deeds and information obtained in the exercise of their office confidential.

The middle ground that needs to be taken so that the law enforcement process is not hampered while still providing legal protection to the notary profession is the need for a policy of deed and notary examination conducted jointly by MKN and law enforcement officials at the investigation level (Sriwati, 2022). This policy refers to a collaborative mechanism between MKN and law enforcement officials, such as police investigators, prosecutors, and judges, in the context of investigating and prosecuting alleged criminal offences involving notaries.

This collaboration basically aims to build a working mechanism that is transparent, professional, and respectful of each institution's authority. Law enforcers need access to deed minutes or information from notaries, but such access cannot be given freely because notaries are bound by the obligation to maintain the secrecy of the office as stipulated in Article 4 of the Notary Position Law. To open such access, approval from MKN is required, as stipulated in Article 66 of the Notary Position Law.

Through the policy of joint examination, MKN is directly present in the clarification or examination process to ensure that: a) the examination process runs according to the law, b) there is no attempt to criminalise notaries, and c) the information or documents requested are truly relevant to the ongoing legal process. Thus, this collaboration is not only a form of protection for the notary profession but also plays an important role in maintaining public trust in the legal system, as well as efforts to support the law enforcement process. This process also encourages the formation of a more harmonious and responsible inter-institutional working pattern and prevents abuse of authority by one party.

There are several examples of cases related to the summoning of notaries and MKN's role in it, which will be explained as follows:

- a. The first case: the case that befell Notary/PPAT Ketut Neli Asih, S.H. and the legal team filed a judicial review at the Supreme Court, which in fact the decision number 20 PK/Pid/2020 dated 14 May 2020, which acquitted purely and entirely Notary/PPAT Ketut Neli Asih, S.H., considering that Notary/PPAT Ketut Neli Asih, S.H. With the granting of the judicial review and the Notary being acquitted because the act is not a criminal offence, it is clear that the Notary's position in carrying out his position in this case is materially and immaterially disadvantaged, such as following the judicial process which takes up time, money, and energy, besides that the Notary is likely to get a bad stigma from the public as if he has become a criminal. This case shows that the approval of MKN is needed in the summoning of Notaries by law enforcement so that MKN knows for sure and can provide legal protection to notaries when they are not proven to have committed indications of criminal acts against the deeds they made.
- b. The second case: the case against notary Wayan Darma Winarta. MKNW Bali Province has carried out its duties based on Article 66 of the NOTARY JABATAN Law and Permenkumham Number 17 of 2021. Permenkumham Number 17 of 2021 does not specify the object of examination. MKNW Bali Province only focuses on examining the formal requirements of the Notarial Deed of I Wayan Darma Winarta. There are three criteria fulfilled to approve, but they are related to the material requirements of the Notarial Deed. It caused the Bali Province MKNW to reject the request from the Police Criminal Investigator. However, even though the application was rejected, the investigators were still able to continue the legal process by confiscating the notarial deed minutes based on permission from the Denpasar District Court Chairman.
- c. I Wayan Darma Winarta was subsequently named as a suspect and sentenced to criminal punishment for committing the offences of fraud and document forgery. This case highlights the importance of a clear understanding of Article 66 of the Notary Public Office Law, particularly regarding the authority of the Notary

Honour Council (MKN) to approve the summoning of notaries by law enforcement officials. The article requires that investigators, public prosecutors, or judges must obtain MKN's approval to summon notaries or take photocopies of deed minutes kept by notaries. However, the application of Article 66 of the NOTARY JABATAN Law in the I Wayan Darma Winarta case shows the potential for legal uncertainty and norm ambiguity, especially in relation to the procedures and criteria that must be met in granting approval by MKN. It could create obstacles in the legal process and harm interested parties. This case also shows that MKN was not thorough and careful in conducting the examination. From the beginning, MKN should have been able to obtain data and information from the examination process that the notary concerned was suspected of committing a criminal offence. Therefore, MKN should have issued a decision to grant the request of law enforcers instead of rejecting the request of law enforcers. Actions like this certainly cause losses to law enforcers, which can hamper the law enforcement process. Therefore, MKN should be more thorough and careful in conducting the examination process so that the decisions issued by MKN can support the law enforcement process while still providing legal protection to the notary profession.

## CONCLUSION

Based on the results of the research and analyses that have been carried out, it is concluded that:

- a. Several regulations serve as the juridical basis for the summoning of notaries by law enforcers, namely Law Number 30 of 2004 concerning the Notary Position, which was last amended in Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Notary Position and Regulation of the Minister of Law and Human Rights Number 17 of 2021 concerning Duties and Functions, Terms and Procedures for Appointment and Dismissal, Organisational Structure, Work Procedures, and Budget of the Notary Honorary Council. Based on these regulations and principles, the procedures and mechanisms in requesting/applying for MKN approval are: 1) Submission of a request by law enforcement officials to MKN regarding the collection of photocopies of the Deed Minute and/or letters attached to the Deed Minute or Notary Protocol and the summoning of Notaries. 2) Examination and decision-making by MKN. At this stage, based on Permenkumham Number 17 of 2021, the examination of the notary before MKN gives a decision whether to grant the law enforcement request or refuse will be carried out by the examining panel.
- b. Notary involvement in a legal process can occur in various capacities and statuses, namely: as a witness, expert, or even as a suspect. A notary has the status of a witness if the notary knows, hears, sees, or experiences a criminal event that is being investigated or investigated by law enforcement officials. A notary is usually called as a witness when the criminal event is related to a deed made or a legal event involving his/her client. A notary may be called as an expert if his/her testimony is needed to explain technical or legal matters related to his/her authority and expertise, such as deed making, notarial procedures, or the validity of a deed. Notaries can also become suspects if there is sufficient evidence indicating their alleged involvement in a criminal offence. Notaries involved in the legal process have various rights and obligations. Notary rights include: The right to obtain legal aid, the right to be assisted by the regional MKN, the right to be treated fairly and without discrimination, and the right to maintain the confidentiality of the office.
- c. Meanwhile, the obligations of notaries are: obliged to comply with the legal process, obliged to provide honest information, obliged to maintain the confidentiality of the office, obliged to comply with professional ethics and examination procedures and obliged to submit documents if permitted by MKN. MKN's approval or rejection of the examination request has very significant legal and practical implications in the law enforcement process. In the event that the Examining Council approves the law enforcement request, the notary is obliged to: 1) provide a photocopy of the minutes of the deed and/or letter required to the investigator, public prosecutor, or judge; and 2) submit a photocopy of the minutes of the deed and/or letter with a delivery report signed by the Notary and the investigator, public prosecutor, or judge witnessed by 2 (two) witnesses. In addition, based on Article 33 Paragraph (3) of Permenkumham Number 17 of 2021, if MKN has approved

the request for summoning a notary by law enforcement, the notary is obliged to fulfil the summons and has the right to be accompanied by MKN region in the examination process before the investigator, public prosecutor, or judge. Suppose MKN rejects the request of law enforcers. In that case, law enforcers cannot make efforts to collect photocopies of the Deed Minute and/or letters attached to the Deed Minute or Notary Protocol in the Notary's storage. In addition, law enforcers also cannot make efforts to summon the Notary to appear in an examination related to the Deed or Notary Protocol that is in the Notary's storage. The examples of cases that have been presented relating to the summoning of notaries and MKN's role in it show that MKN is not thorough and careful in conducting examinations so as to issue decisions that are detrimental to notaries. Therefore, MKN should be more thorough and careful in conducting the examination process so that the decisions issued by MKN can support the law enforcement process while still providing legal protection to the notary profession.

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