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Susilawati, Tatik; Asikin, Zainal; Suhartana, Lalu Wira Pria

Veröffentlichungsversion / Published Version

Zeitschriftenartikel / journal article

Empfohlene Zitierung / Suggested Citation:

Susilawati, T., Asikin, Z., & Suhartana, L. W. P. (2024). Implementation of Electronic Transactions of Notary's Deeds in Improving Legal Certainty and Data Security. *Path of Science*, 10(1), 8024-8033. <https://doi.org/10.22178/pos.100-33>

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Implementation of Electronic Transactions of Notary's Deeds in Improving Legal Certainty and Data Security

Tatik Susilawati¹, Zainal Asikin¹, Lalu Wira Pria Suhartana¹

¹ *University of Mataram*

Jl. Majapahit No 62 Mataram, Nusa Tenggara Barat, Indonesia

DOI: [10.22178/pos.100-33](https://doi.org/10.22178/pos.100-33)

JEL Classification: K39

Received 27.12.2023

Accepted 25.01.2024

Published online 31.01.2024

Corresponding Author:

Tatik Susilawati

Tetikususilawati@gmail.com

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Abstract. This research aims to determine the regulation of electronic transactions in Notarial deeds (Notary Study in West Lombok). This type of research combines normative legal elements, which are then supported by adding data or empirical elements. Notaries, Temporary Notary Officials, Substitute Notaries, and MPDs carry out electronic notarial deed arrangements, and after 25 years, the Notary must submit their protocol to the MPD. The UUJN/UUJN-P does not regulate whether notary protocol storage is limited to paper media (conventional) or allows for digital storage using electronic media by a notary. This is because the Notary's protocol is considered a state archive, and the Archives Law governs the permissibility of storing archives using electronic media. Implementing notarial deeds via electronic means to increase legal certainty and data security, namely by storing Notarial protocols digitally using electronic media not regulated in UUJN/UUJN-P, legal responsibilities arising from violations or unlawful acts apply to legal provisions. In general, whether civil, criminal, or administrative, to the Notary concerned. Another responsibility of the Notary who holds the protocol is to keep the parties' data confidential in connection with legal acts outlined in the form of an authentic deed.

Keywords: Implementation; Electronic Transactions; Notary.

INTRODUCTION

The rapid development of information and electronic technology has changed various aspects of human life, directly leading to legal changes. The resulting legal products develop with technological advances due to the need to fill legal gaps. Notaries in the Industrial Revolution did not evade the cyber Notary, which we expect to offer convenience in carrying out the duties and functions of officials who authenticate deeds authors [1].

So far, a cyber notary can be interpreted as carrying out his duties, functions, and authority using information technology, especially in doing deeds authors [1].

Article 1868 of the Civil Code (now called the Civil Code) states, "The cyber Notary, expected to offer convenience in carrying out the duties and functions of officials who authenticate deeds, did not escape notaries in the Industrial Revolution era." According to the author's interpretation,

this article provides implicit restrictions on the possibility of digitizing the deed, namely that the parties are present in front of and with the Notary, the parties read the draft deed on a computer or gadget, and sign the deed electronically. After signing the deed, the Notary is obliged to keep minutes of the deed, which is part of the Notary Protocol regulated in Article 16 § 1 letter b of Law No 2 of 2014 concerning Amendments to Law No 30 of 2004 concerning the Position of Notary (from now on referred to as UUJN-P): "make a Deed in the form of Deed Minutes and save it as part of the Notarial Protocol."

Article 16 § 2 of the UUJN-P regulates exceptions regarding the obligation to keep deeds: "The obligation to keep Deed Minutes as intended in § 1 letter b does not apply, in the case of a Notary issuing a Deed in original." So Article 1 No 13 of the UUJN-P states that the Notary is obligated to keep the minutes of the deed, so the Notary himself should keep the Notary Protocol (which con-

tains the minutes of the deed) and not allow his employees to hold it this is because the Notary Protocol is a collection of documents that are state archives that must be kept and maintained by a Notary (Article 1 point 8 of Law No 2 of 2004).

The minutes of the deed are the original Notarial deed containing the signatures of the presenters, witnesses, and the Notary, which the Notary then keeps as part of the protocol. If the Notary implements deed digitization, the Notary will store the client's data on the Notary's or Notary's employee's computer, such as identity according to the Resident's Identity Card, legal actions carried out by the client, and the client's digital signature. Notaries are obliged to keep confidential all matters relating to the deed made by the Notary concerned and all information obtained in carrying out their duties and functions so that the Notary's oath of office protects the deed unless the Law stipulates otherwise (Article 16 § 1 letter f UUJN-P) [2].

Apart from being beneficial for life, information technology also has an impact on the emergence of various problems within the legal scope. Several regulations, still products of the legacy of colonialism, cause the lagging condition of legal development in Indonesia, and legal products created today in terms of substance have not been able to keep up with the rapid growth of information technology [3].

The development of the world of information technology today is very rapid and has had various significant impacts on human life. Various conveniences are provided by the development of telecommunications, making it possible for social relations to occur quickly and efficiently as if they were not far away. Technological advances have succeeded in shifting conventional activities to electronic-based ones. The electronic-based trading mode is the most influenced. With a world that seems to be without borders, it is possible to carry out pervasive trade and become a borderless market as a medium for consumers and producers to meet through electronics.

On the other hand, notaries, as public officials who serve the community, are expected to be able to respond appropriately to developments in this information technology era. The existence of cyberspace, often referred to as cyberspace, can be accessed easily via the internet, causing the boundaries of spatial dimensions to become almost invisible. This technological development

also has implications in the notarial field, where the idea of cyber Notary emerged.

Information technology's rapid development and progress have caused changes in human life activities in various fields, directly influencing the birth of new legal acts or actions. So, the opportunities and challenges for Notaries in the era of globalization are the emergence of demands for Notaries not only to work manually but also to utilize technology-based information authors [4]. The success of electronic commerce ultimately depends on the trust that transacting parties place in the security of the transmissions, the integrity of the content of their commissions, and their confidence that domestic or foreign jurisdictions will give sufficient recognition to ensure the enforceability of these communications.

The benefits of electronically doing Notarial deeds include time and cost efficiency. However, apart from producing many benefits for society, information technology raises several legal issues, especially legal ones [5]. The rapid development of society is inversely proportional to the development of Law in Indonesia, which always lags behind the train. From time to time, legal regulations in Indonesia have consistently shown that they lag because many legal regulations are still products of the Dutch colonial legacy and are still in use. Likewise, legal products made today, in terms of material and substance, have not been able to keep up with developments, especially the increasingly rapid development of information technology [5].

The problem notaries face in the current digital era is maintaining data storage security for users from natural and digital disasters such as floods, fires, earthquakes, and disturbances such as computers infected with viruses, data theft, data modification, and misuse of electronic signatures.

Heavy rain that continued to pour down on December 5, 2021, flooded the Notary's Office in Meninting Village, Batu Layar, and the Bhangkara Residence Housing Complex in Ranjok, Batu Layar District, West Lombok, West Nusa Tenggara, with floodwaters rising to 2 m [6].

The flood affected around 200 families (KK) in the housing complex, forcing them to evacuate using rubber boats belonging to the TNI and Polri. Some residents evacuated to neighbouring houses that were safer or not submerged. The dam at the Meninting River broke down, causing the disaster. Previously, the bridge connecting

the city of Mataram with the tourist destination area of Senggigi, West Lombok, or, to be precise, over the Meninting River, had been covered in standing water from the overflowing river.

Based on the background above, the problem in this research is how to regulate and implement notarial deeds electronically.

METHOD

In this case, this type of research combines normative legal elements with the addition of data or empirical elements. "This normative-empirical research method is also about the implementation of normative legal provisions (laws) in action in each particular legal event that happens in a society" authors [7].

The approach used is a statutory approach (The Statute Approach) and a conceptual approach (Analytical and Conceptual Approach) [7]. We use the statutory approach to analyze various laws and regulations related to the Role of Notaries in Increasing Legal Certainty and Data Security Regarding Electronic Transactions in Notarial Deeds (Notary Study in West Lombok). In contrast, we use the conceptual approach to comprehensively analyze and study the Role of Notaries in Increasing Legal Certainty and Data Security Regarding Electronic Transactions in Notarial Deeds (Notary Study in West Lombok).

The collection of legal materials and data used in this research employs the documentation method, namely, searching for data about things in the form of notes, transcripts, books, newspapers, magazines, inscriptions, minutes, etc. The documentation method is extracting data by quoting or copying from written sources stored as documentation related to this research.

Data processing and analysis depend on the type of data. For normative legal research, which only knows secondary data, which consists of primary legal materials, secondary legal materials, and tertiary legal materials, then in processing and analyzing these legal materials, one cannot exclude oneself from various interpretations known as legal science authors [8]. The analysis used in this research employs the legal hermeneutic (interpretation) method, including extensive or expanding interpretation. This process involves interpreting the legal materials processed to enhance the meaning or terms in an article in the Law. The aim of using the herme-

neutic (interpretation) method is to analyze the Law, whether the legal material, especially primary legal material, contains vague legal norms (unclear application) or not authors [8].

RESULTS AND DISCUSSION

Arrangement of Notarial Deeds in Electronics

Understanding Electronic Notary Law

Notaries have a vital role in the lives of the nation and state because notaries are obliged to provide legal certainty, protect people's rights, and prevent fraud. In the current digital era, norms regulating conventional and electronic notaries (electronic notarization/E-Notarization) are necessary to provide certainty and protection [9].

Notary's Authority

1. Notary's Authority According to UUJN-P. Article 15 UUJN-P states regarding the authority of a Notary, namely:

A) A notary has the authority to make authentic deeds regarding all deeds, agreements, and stipulations required by statutory regulations and/or desired by interested parties to be stated in authentic deeds. They guarantee the certainty of the date of doing the deed, store the deed, provide a Grosse, a copy, and extracts from deeds, all as long as the making of the deed is not also assigned or excluded to another official or other person as determined by Law.

B) Apart from the authority as intended in § 1, the Notary also has the authority to:

- 1) validate the signature and determine the certainty of the date of the underwritten letter by registering it in a particular book;
- 2) record letters under hand by registering for a specific book;
- 3) make a copy of the original letter under your hand in the form of a copy containing the description as written and depicted in the letter concerned;
- 4) validate the suitability of the photocopy with the original letter;
- 5) providing legal counselling regarding the making of deeds;
- 6) make deeds relating to land or
- 7) make a deed of auction minutes.

C) Apart from the authority as intended in § 1 – 2, the Notary has other authority as regulated in statutory regulations.

Article 15 UUJN-P and Article 16 § 3 UUJN-P categorize the authority of a Notary as mentioned; this classifies the jurisdiction of a Notary. Additionally, Article 1 point 11 UUJN-P and Article 54 § 1 UUJN-P mention the authority of a Notary to issue a Gross Deed of Debt Acknowledgment.

Article 16, § 3

- 1) Deed of payment of rent, interest, and pension;
- 2) Deed of cash payment offer;
- 3) Deed of protest against non-payment or non-receipt of securities;
- 4) Power of attorney deed;
- 5) Deed of ownership; And
- 6) Other deeds are by statutory provisions.

UUJN-P itself has determined the authority of a Notary as in Article 15. Especially in making deeds, namely for deeds or legal actions ordered by laws/legislative regulations. The parties who come before the Notary must have it in the form of a notarial deed.

2. Notary's Authority According to Other Laws

In this case, "according to" refers to another law that does not regulate the office of a notary public. However, the relevant Law specifies certain legal acts or actions that must be executed by a Notarial deed, among others:

A) Article 7, § 1 of Law No 40 of 2007 concerning Limited Liability Companies states that Limited Liability Companies establish themselves with a Notarial deed.

B) Individuals or entities must create a Power of Attorney to Encumber Mortgage Rights by Article 15, § 1 of Law No 4 of 1996 concerning Mortgage Rights over Land and Other Land-Related Objects, using a Notarial deed or PPAT deed.

C) If the parties cannot sign a written agreement as intended in § 1, they must create it as a Notarial deed according to Article 9, § 2 of Law No 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

D) Article 5, § 1 of Law No 42 of 1999 concerning Fiduciary Guarantees confirms that a Notarial deed makes a fiduciary guarantee deed.

E) Article 9, § 2 of Law No 16 of 2001 concerning Foundations states that individuals or entities establish Foundations with a Notarial deed.

F) Article 2, § 1 of Law No 31 of 2002 concerning Political Parties determines that a notarial deed must establish a political party.

G) Article 12 § 1 letter a of Law No 17 of 2013 concerning Community Organizations confirms

that the legal entity of the association as intended in Article 11 § 1 letter a is established with the requirements of a deed of establishment issued by a Notary containing the AD and ART.

Notary Obligations

According to the Big Indonesian Dictionary, obligation means something that is required, must be carried out, or can be interpreted as necessary. Therefore, the Notary must fulfil their obligations to carry out their position because they have become a necessity required by UUJN/UUJN-P.

A notary must carry out obligations in their office, according to UUJN-P. The Notary's obligations are regulated in Article 16, namely:

- 1) Act honestly, thoroughly, independently, impartially, and safeguard the interests of parties involved in legal actions;
- 2) Do a deed in the form of a deed minute and save it as part of the Notary's protocol;
- 3) Attach letters and documents, as well as the applicant's fingerprints, to the minutes of the deed;
- 4) Issue grosse deeds, copies of deeds, or quotations of deeds based on minutes of deeds;
- 5) Providing services by the provisions of this Law, unless there is a reason to refuse it;
- 6) Keep everything regarding the deed they make confidential and all information obtained to do the deed by the oath/promise of office unless the Law stipulates otherwise;
- 7) The Notary binds the deeds made within one month into a book containing no more than 50 deeds. If the number of deeds exceeds the capacity of one book, the Notary binds the deeds into more than one book. Additionally, the Notary records the number of minutes of the deeds, month, and year of publication on the cover of each book;
- 8) Make a list of deeds of protest against non-payment or non-receipt of securities;
- 9) Create a list of deeds relating to wills, ordering them by the month they were made;
- 10) Send the list of deeds as referred to in letter h or the nil list relating to wills to the Central Register of Wills at the ministry whose duties and responsibilities are in the notarial sector within five days of the first week of each following month;
- 11) Record in the repertory the date of delivery of the list of wills at the end of each month;
- 12) Create a stamp/stamp containing the state symbol of the Republic of Indonesia, and write

the name, position, and place of the concerned office in the space surrounding it;

13) Read the deed in front of the presenter in the presence of at least 2 (two) witnesses and signed at that time by the presenter, witness, and Notary;

14) We are accepting prospective Notary internships.

Notary Responsibilities

Responsibility is a consequence that arises as a result of actions carried out by individuals. The ability to be responsible theoretically must fulfil the following elements:

A) The ability to differentiate between good and bad actions, those that comply with the Law and those that are against the Law.

B) The ability to determine one's will according to one's beliefs about the good and bad aspects of the action.

According to the author [10], responsibility relates to gaining trust, being an honour, and being a mandate. Furthermore, the author states that there are three types of accountability: moral responsibility, professional technical responsibility, and legal responsibility.

The responsibility of the Notary profession in carrying out their official duties is related to civil liability. This responsibility is a logical consequence that someone from the legal profession must ask when carrying out their duties. This responsibility is not only based on morals but also based on Law. The idea that everything a person does must be held accountable starts from the premise [11].

To the above, author [12] stated that responsibility for a person's actions usually only has practical meaning if that person commits an action not permitted by Law. Most of these actions are unlawful acts in the Civil Code (onrechtmatige daad).

Notary Protocol

Tan Thong Kie states that the community owns the protocol, and the Minister of Justice supervises it. The protocol does not belong to the Notary who did the deeds nor to the Notary assigned by the Minister of Justice to keep it. The most important part of a protocol is the monthly files of all original deeds (minutes) made by a Notary. What is meant by stored in the Notary's protocol is the storage in the file of the original deed.

In the explanation of Article 62 UUJN, it states the composition of the Notary protocol:

- 1) Deed minutes;
- 2) Repertory deed register book;
- 3) A book registers private deeds signed before a Notary or registered private deeds;
- 4) Book listing names of presenters or clappers;
- 5) Protest register book;
- 6) Will registration book; And
- 7) The Notary must keep other registered books based on statutory provisions. To provide understanding, the following explains the terms mentioned above.

Implementation of Notarial Deeds Via Electronics

In its development in storing Notary protocols (archives), Notaries have utilized cloud computing services such as Google Drive and Cloud to store scanned protocols, making it easier for Notaries to upload and download them again [13].

This proves that the Notary has used a system that stores data on a large scale (big data), a development of the Industrial Revolution 4.0. However, on the other hand, with the use of cloud services that make it easier to store protocols, there are risks that Notaries must pay attention to regarding data protection for their protocols in the event of data leaks or unauthorized access.

Apart from that, society has now developed towards society 5.0, where people face technology that accesses virtual space as in physical space. In society 5.0, technology relies on big data and robots to support human work. Therefore, as technology develops rapidly, the Notary profession needs to keep pace with this rapid development [14].

The legal certainty of storing Notary protocols digitally is currently something that is still grey for Notaries because there are no implementing regulations for storing Notary protocols digitally. Viewed from an effectiveness perspective, storing Notary protocols digitally will make things easier for Notaries in Indonesia and the public.

It is necessary to study whether the transfer of conventional Notary protocols to digital/electronic Notary protocols has the same evidentiary power. In line with the current development of information technology, evidence in civil cases does not only include written proof. The civil justice process has experienced growth with the introduction of several pieces of evidence that are not regulated by Law, such as photocopies, photographs (portraits), recordings of

sounds and images, faxes, scans, flash disks, electronic mail (e-mail), witness examination using video teleconference, short message service systems (SMS or short message services), and other electronic data/documents.

Regarding evidence in electronic form, Michael Chissick and Alistair Kelman stated that there are three types of evidence created by the computer, namely [15]:

1) Real Evidence. Objective evidence includes calculations or analyses made by the computer through software applications and receiving information from other devices, such as clocks that are built-in directly on the computer or remote senders. This clear evidence arises from various conditions.

2) Hearsay Evidence. This evidence is documents or data produced by computers, which are copies of information provided (entered) by humans to computers.

3) Derived Evidence. Derived evidence combines objective evidence with information provided by humans to a computer to form combined data, such as making a bank bill.

In Indonesia, the electronic verification system in the ITE Law and its amendments still excludes letters and documents that must be made in the form of a notarial deed or a deed made by a deed-making official, taking into account the provisions of Article 1868 of the Civil Code. In Article 1866 of the Civil Code, evidence consists of a) Written proof, b) Witness evidence, c) Estimate, d) Confession, and e) Oath.

Notary Protocols that are stored digitally, such as printouts, scanning microfilm, hard disks, flash disks, and other storage media, namely information storage devices that are not paper and have a level of security that can guarantee the authenticity of documents transferred to them, also regarding electronic records have been regulated as evidence that is recognized at trial in the form of material Law through the ITE Law. Regardless of the transfer of documents in digital form, the original manuscript still has the power of authentic proof as long as an authorized official made it, and the original manuscript must remain stored.

Referring to Article 1888 of the Civil Code, the evidentiary power of written evidence is the original deed. In proving in court, the Notary can only submit electronic documents as evidence, following the orders in Article 66 and Article 66 A UUJN-P, without accompanying

minutes (original deeds). Minister of Law and Human Rights Regulation No M.03.HT.03.10. In 2007, the Notary is obliged to provide information, reasons, and reliable evidence to the investigator or judge regarding the loss or absence of the minutes (original deed) so that the Notary can provide other evidence such as a copy of the Notary's deed to investigator or judge if a Notary has issued the minutes (original deed) a copy of the deed.

With the enactment of the ITE Law, Indonesia has also accepted electronic information as evidence, as stated in Article 5 of the ITE Law. Therefore, individuals cannot deny its presence solely because of its electronic form. Article 5 of the ITE Law states that:

1) Electronic information and/or electronic documents and/or printouts are valid legal evidence.

2) Electronic information and/or electronic documents and/or printouts, as intended in § 1, are an extension of legal evidence by the procedural Law in force in Indonesia.

3) Electronic information and/or documents become valid if an electronic system uses them per this Law's provisions.

4) Provisions regarding electronic information and/or electronic documents as intended in § 1 do not apply to:

a) Letters which according to Law must be made in writing; And

b) According to Law, the letter and its documents must be made in the form of a notarial deed or a deed made by the deed-making official.

It is determined that electronic information and/or electronic documents have been recognized as valid legal evidence both in their original electronic form and in their printed form.

The ITE Law clearly states that electronic information/electronic documents are only an extension of evidence as indicated in Article 5 § 2 of the ITE Law, even though electronic information/electronic documents should also be able to become separate evidence as a consequence of the formulation in Article 5 § 1 which recognizes electronic information/electronic documents in their original electronic form, and the formulation of § 3 which states that their existence can only be considered valid if they comply with the provisions regulated in the ITE Law.

The UUJN or other statutory regulations do not regulate the digital storage of notary protocols. Consequently, the Notary presenting the digitally

stored Notary protocol at the trial can meet the criteria as evidence known in existing procedural Law, namely as a guide. However, to ensure completeness, we need further information from the Notary concerned as the public official who did the authentic deed.

Copies of Notarial deeds and electronic documents can be used as mutually reinforcing evidence. In principle, the copy of the Notary's deed, which is used as a photocopy, scan, or printout in each trial, must still be presented in the original because, in Article 1889 § 2 of the Civil Code, it has been determined that if the original deed exists, then the copies and summary The summary can only be trusted, only the copies and summaries correspond to the original, which can always be ordered to be shown.

Legal efforts to realize the digital storage of Notary protocols relate to the absence of statutory regulations that expressly regulate it in the UUJN/UUJN-P. Only the explanation of Article 15 § 3 UUJN-P mentions the possibility for Notaries to certify transactions carried out electronically (cyber Notary) and the restrictions provided by Article 5 § 4 of the ITE Law.

The regulations regarding the minutes of deeds and Notarial protocols in the UUJN/UUJN-P only cover creating, storing, and submitting Notarial protocols. The UUJN/UUJN-P does not regulate the digital storage of Notary protocols. However, a Notary can undertake this to mitigate all risks and worst possibilities for the documents they store. Media that technological developments consider for use as data or information storage include:

- 1) Magnetic tape is a storage medium made of magnetic material coated on thin plastic, like the ribbon on a cassette tape.
- 2) Magnetic disks are disk-shaped storage media. Optical disks can hold hundreds or even thousands of times more data than diskettes.
- 3) UFD (USB Flash Disk) is a data storage device shaped like a pen; it can be used by connecting to a USB port.
- 4) Memory cards are a type of storage device, such as thin plastic, commonly used in PDAs, digital cameras, cell phones, and handy cams.

A digital transfer of Notary protocol storage can only function as a backup, not a copy with binding force. Therefore, it is necessary to revise or change the relevant laws and regulations so that digital storage of Notary protocols can provide

legal certainty and have the same evidentiary strength as the original.

Related to the theory put forward by Van Apeldoorn regarding legal certainty, which means that:

- 1) Legal certainty can be determined from the Law and is related to concrete matters.
- 2) Legal certainty is legal security.

One way of realizing legal certainty is when there are clear and consistent rules. The statutory regulations referred to in this discussion are the implementing regulations of the UUJN/UUJN-P relating to digital storage of Notary protocols.

Based on this, legal harmonization is needed between UUJN/UUJN-P, ITE Law, and Archives Law to create legal protection in regulating Notary protocols as archives with digital systems in Indonesia. In addition to harmonizing statutory regulations, it must be accompanied by supporting technology so that digitally storing Notary protocols using electronic media can run effectively and efficiently and maintain authenticity.

The presence of a notary institution is a state regulation with UUJN/UUJN-P or the state deliberately creating the position of a Notary as an implementation of the state in providing services to the people, especially in producing authentic evidence recognized by the state. When applying for an appointment as a Notary, authorities always ask Notaries to accept another Notary's protocol. Taking it has become a legal obligation, and the Notary must store and maintain the Notarial protocol.

According to Wirjono Prodjodikoro, responsibility for a person's actions only exists if that person commits an act that is not permitted, and most such acts are unlawful acts in the Civil Code [16].

Article 1365 of the Civil Code states that every unlawful act that causes loss to another person requires the person whose fault caused the loss to compensate for the loss.

Based on Article 1365 of the Civil Code, the elements of unlawful acts formulated by this article, according to JH Nieuwenhuis, are:

- 1) Actions that cause harm are unlawful because they conflict with other people's rights, morality, and the legal obligations of the perpetrator.
- 2) Losses arise as a result of these actions.
- 3) The perpetrator is guilty.
- 4) Norms that are violated have "trekking" (general nature) to compensate for losses [17].

A Notary must carry the responsibility if something wrong happens, such as committing fraud or deception that originates from the Notary himself [18]. The Civil Code divides the responsibility for unlawful acts into two) groups: direct and indirect. The provisions of statutory regulations for unlawful acts aim to protect and provide compensation to the injured party [19].

Article 65 of the UUJN-P states that the Notary bears the entire obligation and responsibility for all the protocols kept. From an administrative perspective, the Notary's responsibility for storing and holding the physical form of each deed they make, which constitutes the Notary's protocol, ends at the same time as the term of office of the Notary concerned ends.

The intentional loss or destruction of Notary protocols stored digitally using electronic media by a Notary is a violation. Potential legal violations of Notary protocols stored digitally using electronic media by Notaries can cause losses for the parties.

If there is an opportunity for file manipulation (adding, subtracting, deleting, or changing without the parties' knowledge), it can cause losses for the parties. Besides causing losses, manipulating these files also causes a lack of legal certainty.

The legal responsibility of a Notary for violations of Notary protocols, which are stored digitally using electronic media, is based on the theory of legal responsibility put forward by Kranenburg and Vegtig in the fautes personnelles theory that the official bear's losses to third parties as an individual whose actions have caused losses.

Based on this theory, the burden of responsibility is directed at the Notary as an individual in carrying out his office if a violation occurs regarding the storage of Notary protocols stored digitally using electronic media.

Referring to the theory of legal responsibility by Hans Kelsen, the Notary is legally responsible for a particular act, meaning that the Notary is accountable for a sanction in the event of a conflicting act. The UUJN/UUJN-P does not regulate the digital storage of notary protocols using electronic media. Therefore, the general legal provisions and civil, criminal, and administrative responsibilities apply to the concerned Notary.

Another responsibility of the Notary who holds the protocol is to keep the parties' data confidential in connection with legal acts outlined in the form of authentic deeds, such as Resident Identifi-

ty Cards and Family Cards categorized as personal data.

According to the Notary and PPAT in Meninting, West Lombok, although the position of Notary has been in existence for a long time, in practice, there are still many obstacles that Notaries must face in carrying out their position as well as obstacles in storing minutes of deeds, including:

- 1) Limited storage space for deeds and other notary files (archives).
- 2) Violation of Notary professionalism related to authenticity requirements.
- 3) Weak evidence supporting the authenticity of the legal subject's identity.
- 4) Forgery of Notarial deeds
- 5) Conflict of interest of the Notary in making the deed.
- 6) Breach of confidentiality.
- 7) Protection of the parties' data.
- 8) Tax liability.
- 9) Weak tracking control and guidance of related agencies.

Storing Notary Protocols and other Notarial documents can be made more accessible by storing deeds electronically, which is one form of cyber notary implementation.

The use of computer equipment for Notaries is not strange anymore because Notaries currently make deeds and store notes and data needed to support the efficient performance of Notaries in providing services to the public.

CONCLUSIONS

The regulation of notarial deeds in electronic form explicitly explains that the Notary has the authority to make authentic deeds electronically based on Article 1 No 8 of Law of the Republic of Indonesia No 2 of 2014 concerning Amendments to Law No 30 of 2004 concerning the Position of Notary and Article 1868 of the Civil Code.

Implementation notarial deed via electronic means to increase legal certainty and data security, namely by storing Notary protocols digitally using electronic media, is not regulated in UUJN/UUJN-P, so legal responsibility arising from violations or unlawful acts, general legal provisions apply both civil criminal and administrative to the Notary concerned.

REFERENCES

1. Putri, C. C., Yahanan, A., & Trisaka, A. (2019). *Penyimpanan Protokol Notaris Secara Elektronik dalam Konsep Cyber Notary* [Electronic Storage of Notary Protocols in the Concept of Cyber Notary] (Thesis); Sriwijaya University (in Indonesian).
2. Arifaid, P. (2017). *Tanggung Jawab Hukum Notaris Terhadap Akta In Original* [Legal Responsibility Of Notary Towards Deed In Original]. *Jurnal Ius*, 5(3), 510. doi: 10.29303/ius.v5i3.456 (in Indonesian).
3. Nurita, R. A. E. (2012). *Cyber Notary Pemahaman Awal Dalam Konsep Pemikiran* [Cyber Notary Initial Understanding in Conceptual Thinking]. Bandung: Refika Aditama (in Indonesian).
4. Nurita, R. A. E. & Raden Ayu. (2002). *Cyber Notary: Pemahaman Awal Dalam Konsep Pemikiran* [Cyber Notary Initial Understanding in Conceptual Thinking]. Bandung: Refika Aditama (in Indonesian).
5. Sundani, T. (2017). *Analisis Hukum atas Penggunaan dan Pembuatan Akta Notaris Secara Elektronik* [Legal Analysis of the Use and Making of Electronic Notarial Deed]. Retrieved from <https://media.neliti.com/media/publications/165003-ID-analisis-hukum-atas-penggunaan-dan-pembu.pdf> (in Indonesian).
6. Hadrian. (2021, December 07). *Tanggul Sungai Meninting Jebol, Rumah Warga di Ranjok Lombok Barat Banjir 2 Meter* [Meninting River embankment breaks, floods 2 meters of houses in Ranjok, West Lombok]. Retrieved from <https://www.liputan6.com/regional/read/4729458/tanggul-sungai-meninting-jebol-rumah-warga-di-ranjok-lombok-barat-banjir-2-meter> (in Indonesian).
7. Soekanto, S. & Mamudji, S. (2010). *Penelitian hukum Normatif Suatu Tinjauan Singkat* [Normative Legal Research A Brief Overview]. Jakarta: Raja Grafindo (in Indonesian).
8. Amiruddin. & Asikin, Z. (2021). *Pengantar Metode Penelitian Hukum* [Introduction to Legal Research Methods]. Depok: RajaGrafindo Persada (in Indonesian).
9. Salim, H. S. (1999). *Pengantar Hukum Notaris Elektronik* [Introduction to Electronic Notary Law]. Jakarta: Erlangga (in Indonesian).
10. Valerine, J. L., & Kriekhoff. (2007) *Tanggung Jawab Profesi* [Professional Responsibility]. Depok: Universitas Indonesia (in Indonesian).
11. Nico. (2003). *Tanggung Jawab Notaris Selaku Pejabat Umum* [Notary's Responsibility as a Public Official]. Yogyakarta: Center for Documentation and Studies of Business Law (in Indonesian).
12. Prodjodikoro, W. (1983). *Asas-Asas Hukum Perdata* [Principles of Civil Law]. Bandung: Sumur Bandung (in Indonesian).
13. Makarim, E. & Kom, S. (2020). *Notaris dan Transaksi Elektronik Kajian Hukum Tentang Cibernetary atau Electronic Notary* [Notaries and Electronic Transactions Legal Studies on Cybernotary or Electronic Notary]. Depok: Raja Grafindo Persada (in Indonesian).
14. Komang Novita Sri Rahayu. (2021). *Sinergi Pendidikan Menyongsong Masa Depan Indonesia di Era Society 5.0* [Education Synergy to Welcome Indonesia's Future in the Era of Society 5.0]. Edukasi: *Jurnal Pendidikan Dasar*, 3(1) (in Indonesian).
15. Sanusi, M. A. (2001). *E-Commerce Hukum dan Solusinya* [E-Commerce Laws and Solutions]. Bandung: Mizan Grafika Sarana (in Indonesian).
16. Anshori, A. G. (2009). *Lembaga Kenotariatan Indonesia, Perspektif Hukum dan Etika* [The Indonesian Institute of Kenotarians, Legal and Ethical Perspectives]. Yogyakarta: UII Press (in Indonesian).
17. Nieuwenhuis, J. H. (1985). *Pokok-Pokok Hukum Perikatan* [Principles of Bond Law]. Surabaya: n. d. (in Indonesian).

18. Soegondo Notodisoerjo, R. (1993). *Hukum Notariat di Indonesia, Suatu Penjelasan* [Notarial Law in Indonesia: An Explanation]. Jakarta: Raja Grafindo Persada (in Indonesian).
19. Salim, H. S. (2006). *Hukum kontrak: teori dan teknik penyusunan kontrak* [Contract law: theory and techniques of contract drafting]. Jakarta: Sinar Grafika (in Indonesian).