



LEGAL PROTECTION OF APOSTILE ARRANGEMENTS IN RELATION TO THE NOTARY IN INDONESIA

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Article history:	Abstract:
<p>Received: 26th May 2023 Accepted: 26th June 2023 Published: 26th July 2023</p>	<p>Apostille program for public documents to be used abroad is one of the progressive steps intended for ease of licensing and regulations regulated in the Regulation of the Minister of Law and Human Rights Man Number 6 of 2022 concerning Service Legalization Apostille in Public Documents, but it is known that this apostille service still has several shortcomings, namely one of them with needed exists legalization by apostille to document created or legalized by a notary , as it were reflect that document created or legalized by a notary as if No own mark protection law for The holder of this research was conducted using normative research methods, with primary, secondary and tertiary legal materials. The research results show Protection law to legalization documents made by Apostille in Indonesia, there are two forms protection law that is preventive and repressive, where protection law preventive on legalization document made by Apostille that is protection on verification authenticity on documents legalized by Apostille, protection in form convenience in access service Apostille , and protection in form certainty law from exists certificate Apostille issued by the Ministry of Law and Human Rights , however need scrutinized that with needed exists legalization by apostille to document created or legalized by a notary, as it were reflect that document created or legalized by a notary as if No own mark protection law for the holder , then Authority sole Ministry of Law and Human Rights Man in carry out function from Apostille own umbrella law in Article 4 paragraph 2 of the Minister of Law and Human Rights Number 6 of 2022. Where is it authority sole by the Ministry of Law and Human Rights Man in carry out function legalization document public through service Apostille naturally is exists real government in simplify jurisdiction over the legalization process document public For can increase development nor the economy of the republic of Indonesia, however with exists legalization from apostile as if raises dualism authority in the legalization process between apostile with notary .</p>

Keywords: Legal Protection, Apostille, and Notary

INTRODUCTION

Capital is one step initial required in start something effort , fine in the field trading nor production. Related with capital, either form of internal capital room scope business is stock, where something established business through company basically enclose owned capital through stock.¹ Acceleration development economy become task main government in effort welfare society. Various policy in reduce obstacle and push acceleration has done, fine form policy national nor policy international. one policies taken government in answer demands acceleration development economy the is with business government in increase ranking convenience trying (Ease of Doing Business).² One working field improved and simplified by the government is in the field management managed permits through OSS, as well practice legalization document from accommodation abroad from Convention Apostille 1961 or also known as The 1961 Hague Convention aims For delete conditions exists diplomatic legalization or consular documents foreign character document public through Regulation President Republic of Indonesia number 2 of 2021, Regulation of the Minister of Law and Human Rights Man Number 6 of 2022 concerning Service Legalization Apostille on Public Documents , where with exists second provision the government make an effort do deletion condition legalization document public foreign. Deletion

¹Yufrida and Sagittario Danajanto, *Directorate General of Corporate Law* , STIE Widya Persada Press, Jakarta, 2019. p. 8

² Habib Adjie, *Thematic Interpretation of Indonesian Notary Law*, Jakarta: Narotama Press, 2014. p. 107

condition legalize document public foreign it's very tight relationship in support convenience trying . Without removed condition legalization This the legalization process will long , time consuming and expensive.

As for before Apostile official introduced in Indonesia, the process of legalization originating documents _ from abroad is regulated in the Minister of Foreign Affairs Regulation Number 09/A/KP/XII/2006/01 concerning General Guidelines for Foreign Relations and Cooperation by Regional Governments .

Besides That documents from abroad too of course can function as tool evidence , where provision about document from abroad as tool proof too sadly Still quite minimal regulation in Indonesia.

Whereas known , tool proof basically own role important in every trial , no except deed authentic , made by a notary . Where is the deed authentic is s vein deed official is something deed made by or before a official general according Constitution assigned For make letters deed the . Official generally intended That is notary , judge, bailiff at a court , employee recording civil (ambtenaar burgerlijke stand) and so on .³

One side understanding deed according to Yulia is evidence arranged written in Article 1866 of the Civil Code as order first , there is also a mention tool proof letter .⁴ Deed according to Laila M. Rasyid, is given letter sign hand , which loads the events that happened base than something right or engagement , which is made since beginning with on purpose For proof . What is meant with marker hand is " affix Name from si marker hand ". affix initials , that is abbreviation sign hand just considered Not yet enough , name That must written hand by si marker hand Alone on his will alone .⁵

Besides That in provision Articles 1868 and 1870 of the Civil Code , where provision Article 1868 of the Civil Code , which states " An deed authentic is something deed made in specified form law by or before official authorized general For it's in place deed That made ." Whereas provision Article 1870 of the Civil Code which states , " For interested parties along with experts his heir or for people who get right from they , one deed authentic give something perfect proof about what 's in it . "⁶

One side in Indonesia, deed authentic is one tool recognized evidence strength the law in system evidence in Indonesia, where previously deed authentic made by Notaries , and officials public , but in 2021, Indonesia will go through exists Regulation President Number 2 of 2021 concerning Convention Deletion Condition Legalization To Foreign Public Documents , presenting one serving profession authorize documents specifically document public foreign , incl deed authentic yang originated and created from abroad . Regulation President Number 2 of 2021 is here after previously government authorize Constitution Number 11 of 2020 concerning Create Work and Regulations Government Number 24 of 2018 concerning OSS, where government own objective main For cut system long bureaucracy This be one potency happen practice corruption , as well abolish system convoluted bureaucracy in field licensing trying , so government try grow and develop condition the economy in Indonesia, with cut system convoluted bureaucracy , and one of them presenting profession Apostille .

Apostille simplify legalization process chain to document public . The one and only the required formalities For authorize authenticity sign hands , capacity signature , and identity seal or stamp affixed , is with add recognized certificate as " Certificate Apostille ". Certificate Apostille issued by the Authority Competent (as explained below) above application from the person signing document the or carrier . kindly General , Certificate Apostille published in a manner printed . However , it is also possible to have a Certificate Apostille published in a manner electronically (" **E-App** "). A number of Authority Competent in several countries to issue E-App for published public documents in a manner electronics . E-App issuance can also be issued by the Authority Competent in Indonesia, because a number of document public (eg : document land , and NIB) can published in form electronics and usage sign hand electronic has recognized . Besides That The government also publishes Regulation of the Minister of Law and Human Rights Man Number 6 of 2022 concerning Service Apotile , last June 2022 For set procedures service Apostille in Indonesia, for the sake of convenience development economy in the field trying , and interesting foreign investor interest nor local For Want to develop condition Indonesia's long-standing economy This difficult For growing .

Apostille itself in Indonesia accordingly Regulation of the Minister of Law and Human Rights Man Number 6 of 2022, in Article 2 paragraph 3 only serve legalization to documents composed public from :

1. Originating document from something related authorities with court or State tribunals, including those originating from from prosecutor general , clerk court or bailiff (huissier de justice)

In the Appendix to Presidential Regulation No. 2/2021, Government The Republic of Indonesia stated more carry on that document issued by the attorney general as institution prosecution in Indonesia, no including in public documents that are requirements legalization written off based on Convention Apostille .

2. Document administrative

Document administrative that is documents issued by officials administrative . A number of example from document administrative is (i) certificate birth , death and marriage , (ii) certificate right on land , (iii) certificate registration right riches intellectual property , or (iii) documents regarding with education .

3. Documents issued by a notary

³ Habib Adjie, *Thematic Interpretation of Indonesian Notary Law*, Jakarta: Narotama Press, 2014. p. 107

⁴Yulia, *Textbook of Civil Law*, Lhokseumawe: BieNa Education , 2015. p. 107

⁵Laila M. Rasyid, and Herinawati, *Module Introduction to Civil Procedure Law*, Lhokseumawe : Unimal Press, 2015. p. 78

⁶I Ketut Oka Setiawan, *Civil Law Concerning People and Materials*, Jakarta : FH Utama, 2011. p. 55

In Indonesia, notary is official public . With thus , any instrument or deed drawn up by a notary that describes obligation law or formally recorded or verify every deeds that have done or agreed is document public .

4. Certificate official attached to the signed document individual in authority civil law

Apostille concept in Indonesia itself is not without problems. It is well known that in Presidential Regulation Number 2 of 2021 and Regulation of the Minister of Law and Human Rights Number 6 of 2022 it has not regulated what officials or agencies are authorized to legalize the documents referred to in Article 2 paragraph 3 of Minister of Law and Human Rights Regulation Number 6 of 2022, because in Regulation of the Minister of Law and Human Rights Number 6 of 2022 only mentions the officials referred to in Article 1 number 3 of the Ministerial Regulation Law and Human Rights Number 6 of 2022 is someone who has authority and holds a certain position or position in a government office, institution or non-governmental legal entity, including public officials appointed by the government.

In addition, the Regulation of the Minister of Law and Human Rights Number 6 of 2022 has not regulated which agency or official has the authority to legalize the documents referred to in Article 2 paragraph 3 of the ministerial regulation, because when referring to Apostille officials abroad, for example in the United States, Japan, Brazil and England, the Apostille service is carried out by a public notary, whereas in Indonesia, as stated in Presidential Regulation Number 2 of 2021 and Minister of Law and Human Rights Regulation Number 6 of 2022 it has not regulates which officials or agencies are authorized to legalize the documents referred to in Article 2 paragraph 3 of the Regulation of the Minister of Law and Human Rights Number 6 of 2022 .

So it is necessary to clarify which agency or official is authorized to legalize public documents as referred to in Article 2 paragraph 3 of the Regulation of the Minister of Law and Human Rights Number 6 of 2022, and it is necessary to clarify whether the government determines a notary as a public official who has the authority to legalize public documents as applicable to Apostille officials abroad, and if a notary is an official appointed to act as an Apostille, how is the readiness of notaries in Indonesia itself in adopting and implementing the Apostille system in legalizing public documents in Indonesia .

Condition The problems in the research above are basically very interesting For researched more further , where position Apostille and his relationship with field notary in Indonesia to be interesting For researched more go on , fine when Indonesia was still adhere system legalization regulated in the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 09/A/KP/XI1/2006/01, or after validity deletion legalization documents from abroad based _ Regulation President Republic of Indonesia number 2 of 2021, Regulation of the Minister of Law and Human Rights Man Number 6 of 2022 concerning Service Legalization Apostille on Public Documents , where is known Not yet exists body clarity or official what is authorized in legalize document public as meant in Article 2 paragraph 3 of the Regulation of the Minister of Law and Human Rights Man Number 6 of 2022, and necessary clarity is government set Notary Public as official authorized public legalize document public as applies to officials Apostille abroad , as well when Notary Public is appointed official For Act as Apostille , how readiness notary in Indonesia itself in adopt nor operate system Apostille in legalize document public in Indonesia, so that naturally interesting For made study more carry on about certainty law and protection law arrangement to Apostille and its relation field Notary in Indonesia

RESEARCH METHODS

In this study, researchers used the Normative Juridical Law Type Research method, namely legal research that emphasizes secondary data in research and examines the principles of positive law originating from library data.⁷

1.3.2. Research Approach

The research approach used in this study include:

- a. Approach legislation (statute approach) , namely approach taken with study all regulation related laws and regulations with issue discussed law .
- b. Approach Conceptual (Conceptual Approach) is approach in study the law provides corner view analysis settlement problem in study law seen from aspect concepts the law behind it , or even can seen from contained values in normalization A regulation relation with the concepts used .
- c. Approach Analytical (Analytical Approach) is analysis to material law For know meaning contained by the terms used _ in regulation legislation in a manner conceptual , all at once know its application in practices and decisions law .
- d. Approach case (case approach), where approach Case (Case Approach) is approach in study law normative researchers try build argument law in erspective case happening concrete _ in the field natural study this , researcher using secondary data in research . Secondary data is the bibliographical data in it contain material law , that is material primary laws , materials law secondary and materials law tertiary . The secondary data in research This consists from :

a. Primary Legal Materials

- 1) Amendments to the 1945 Constitution fourth
- 2) Civil Law Code
- 3) Constitution Number 30 of 2004 concerning Position Notary Public
- 4) Constitution Number 2 of 2014 concerning Position Notary Public
- 5) Act Number 20 of 2016 concerning Brands and Indications Geographical
- 6) Regulation of the Minister of Foreign Affairs Number 09/A/KP/XII/2006/01

⁷Mukti Fajar ND, *Dualism of Legal Research*, Student Library: Yogyakarta, 2013. p. 23

- 7) Regulation of the Minister of Law and Human Rights Man Number 6 of 2022 concerning Service Legalization Apostille on Public Documents
- b. Secondary Legal Materials
Material composed law from all publication about law which is not is documents official as material the law provides explanation about material primary law, like design law, draft regulation area, results research, results work from circles existing laws its relevance with problem studied law.
- c. Tertiary Legal Materials
Material the law provides instruction nor explanation to material primary and tertiary law, eg dictionary, encyclopedia, index cumulative, and so on, throughout have relevance with appropriate research with title Legal Certainty Against Sale and Purchase of Shares Without the Deed of Sale and Purchase drawn up by a Notary. Collection ingredients law done with method identify and inventory rule law positive, research material library (books, journals scientific reports results research), and sources material law other relevant _ with problem studied law. Ingredients existing law collected, next classification, selection and confirmation No contrary One each other, for make it easy analysis and construction.
- The analytical technique used in study This among them are :
- a. Interpretation grammatical
Some call it as interpretation interpretation based on grammar or knowledge language (de grammaticale of taalkundige interpretatie). Interpreter try find the meaning of a word, term, phrase, or sentence law with method connect text it's on the use of grammar or usage everyday.
- b. Interpretation historical
Interpretation This based on history formation something formula law or legislation (wethistorie interpretatie). Interpreter see atmosphere How Formerly something legislation formed, incl investigate system law and politics the law behind it birth something legislation.
- c. Interpretation systematic
Study to systematic law can carried out by law certain or law recorded. The goal is For stage identification to notions, main / basic in law, that is public law, subject law, rights and obligations, events law, relationship law and object law.
- d. Interpretation teleological
Interpretation teleological often merged with interpretation sociological. This happen If meaning something Constitution set based on objective societal. Interpretation teleological can interpreted something text law Still apply but Already obsolete, no in accordance Again For applied to in current events and needs.

RESEARCH RESULT

Analysis of Seller's Legal Certainty In Sell Buy Shares Done Without There is Deed Sell Buy Shares Made By Notaries

About theory certainty law, in study This used theory certainty proposed law Gustav Von Radburch, who stated certainty law " That law should be certain, that it could not be interpreted and applied in one way today and in another tomorrow, in one way here and in another way there. " must sure, that That No can interpreted and applied in One method day this and with another way tomorrow, in One way here and with another way there).⁸ So that certainty law according to Gustav has meaning demands law, that is, in order to be law become positive in a valid sense with sure, as well No deviate from objective For protect every individual in order to arrange What just do and do n't can done, and vice versa deed What course that is prohibited in any order individual the protected from arbitrariness government.⁹ As for the formula element from certainty law according to Gustav Radburch are :¹⁰

According to Philipus M. Hadjon, that means There are two types of legal protection, namely :

- a. Preventive Legal Protection Means
In this preventive legal protection, legal subjects are given the opportunity to submit objections or opinions before a government decision gets a definitive form. The goal is to prevent disputes from occurring. Preventive legal protection is very significant for government actions based on freedom of action because with the existence of preventive legal protection, the government is encouraged to be careful in making decisions based on discretion.
- b. Repressive Legal Protection Facility
Repressive legal protection aims to resolve disputes. The handling of legal protection by the General Courts and Administrative Courts in Indonesia is included in this category of legal protection. The principle of legal protection against government actions rests on and originates from the concept of recognition and protection of human rights because according to western history, the birth of concepts regarding the recognition and protection of human rights is directed at limitations and placing the obligations of society and the government. The second principle that underlies legal protection against government action is the rule of

⁸Satjipto Rahardjo, *Law in Order, Loc. Cit.*, pp. 137-138

⁹Abdul Ghofur Anshori, *Philosophy of Law, Loc. Cit.*, 2006. p. 108

¹⁰Gustav Radburch, and Wolfgang Friedman, *Legal Philosophy, Loc. Cit.*, p. 205

law principle. Associated with the recognition and protection of human rights, the recognition and protection of human rights takes the main place and can be linked to the goals of the rule of law.¹¹

Related with apostile, known Service process Apostille is gift certificate authentication validity origin start document public certain along sign hand official at home and abroad that approve it. Document the Can certificate, certificate birth, deed divorce, letters power of attorney and letters death.

With launch service this, society can fulfil condition legalization of 66 types document the public to be standard in visa application and registration marriage, as well condition overseas education and training such as diplomas and transcripts value, as well document public other. convenience One step publishing Certificate Apostille can direct used in 121 states parties Convention Apostille and can support Then cross document public between countries become more fast.

Its ratified Convention Apostille 1961 by Indonesia via Regulation President No. 2 of 2021, expected can bring benefit for the Indonesian government in do simplification of the legalization process document abroad to be Enough One stage through service Apostille. kindly detail rule about service This arranged in Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 6 of 2022 concerning Service Legalization Apostille on Public Documents. With presence service Apostille, society can more easy fulfil condition legalization of 66 types document public.

Then related service Apostille d hint every Indonesian documents to be used abroad or document foreigners who will must be used domestically get especially formerly legalization at the Ministry of Law and Human Rights Man cq. Directorate Civil and Ministry of Foreign Affairs cq, Directorate Consular Then new document the can received / legalized by the Embassy of the destination country. Whereas Meaning from A document legalized is proof that documents made by the parties That of course Correct signed by the parties and process it witnessed by officials General in matter This is Notary on the same date with time signing it. because That legalization document must through the Ministry of Law and Human Rights Humans will do matching sign hand notary, because every The notary will practice must send example sign hand to the Ministry of Law and Human Rights Man in accordance Article 7 letter c Law no. 30 of 2004 concerning Position Notary.

With exists legalization apostile, then document public will the more expected give convenience for public look for chance Good to both abroad and from abroad looking opportunity in Indonesia. However, for reach chance That when want open business or studying at a foreign university, of course needed certification or legalization on documents public like a diploma or letter power. Legalization become important done To use ensure reliability of the document in question. One side in accordance theory protection law from Philipus M. Hadjon, known that, effort expected prevention from exists service apostile in Indonesia is that although service document apostile through a simple process, however document results from legalization apostile own mark protection law for holders right from documents legalized by apostile, where form protection law preventive from document legalization from Apostille based on Permenhumkam Number 6 of 2022 concerning Service Legalization Apostille on Public Documents, including:

1. Protection preventive in form exists certainty verification authenticity in documents legalized by Apostille (Article 4) in the form of:
 - a. suitability content document
 - b. suitability sign hand officials, stamps and seals that can be verified at the Directorate at the ministry law and ham
 - c. suitability sign hand electronic documents electronics that can verified at the Directorate at the ministry law and ham
2. Protection in form convenience in access service Apostille in accordance provision Article 8
3. There is protection in form certainty law from exists certificate The Apostille issued by the Ministry of Law and Human Rights is appropriate provision Article 1 point 1.

Besides That protection repressive as description from Philipus M. Hadjon previously that is related purposeful protection For finish dispute, where document public certified by Apostille Ministry of law and rights basic man, guaranteed certainty For can used Good For submit claim to enshrined rights in certification document public which has been legalized by Apostille can used in accordnce objective from publication document public the in accordance provision Article 1 point 1 and Article 10 of the Minister of Law and Human Rights Number 6 of 2022 concerning Service Legalization Apostille on Public Documents.

So that can is known that protection law to legalization documents made by Apostille in Indonesia, there are two forms protection law that is preventive and repressive, where protection law preventive on legalization document made by Apostille that is protection on verification authenticity on documents legalized by Apostille, protection form convenience in access service Apostille, and protection in form certainty law from exists certificate Apostille issued by the Ministry of Law and Human Rights. As for protection repressive as arranged in Permenhumkam Number 6 of 2022 concerning Service Legalization Apostille On Public Documents.

Arrangement The Authority of the Apostille in Indonesia In Legalize Public Documents

Licensing is part most important in something business trade. Licensing become such importance Because existence licensing can determine So nope something business trading carried out. Of all many existing permits, one of them is permission business trade. For create climate conducive business _ To use push enhancement investment,

¹¹Philipus M. Hadjon, *Legal Protection for the Indonesian People*, Development of Science, Surabaya, 1987, p.29

necessary supported with maintenance service issuance of excellent SIUP to the business world . Issuance of Trading Business License as legality business in the field trade , necessary given ease , uniformity and order so that can increase smoothness service public . For That minister trading emit regulation No 36/MDAG/PER/2007 concerning Issuance of Trading Business Permit .¹²

There are parties involved in permissions , fine perpetrator effort , giver permission (government / official) , where There is connection established law between both and aftermath the law that accompanies it , gives birth study , study , and understanding to permits and permits . Permits and permits No free from aspect law .¹³

Based on Article 4 paragraph 1 Ministerial Regulation Number 36/M-DAG/PER/9/2007 Concerning Issuance of Trading Business License For organize business trading this , Every company or individual who does business trading Good business small , business medium , as well business big required For do licensing through the Service Office Integrated One Door (KPTSP) so that later can used as tool or proof endorsement from business trades made . Big its small something business , it depends with the initial capital used like business small entirely until with Rp. 200,000,000.- (two hundred million rupiah), no including land and buildings place effort , effort medium with capital and wealth net (net) entirely above Rp . 200,000,000.- (two hundred million rupiah) to with Rp. 500,000,000.- (five hundred million rupiah), no including land and buildings place effort , and effort big with capital and wealth net (net) entirely above Rp . 500,000,000.- (five hundred million rupiah) no including land and buildings place effort . obligation have a Trading Business License This excluded against :¹⁴

- a. Company Branch Office or Company Representative Office ;
- b. Individual Small Companies that do not in the form of a legal entity or partnership, which is managed and operated or managed by the owner himself or member family / relatives closest ;
- c. Trader around , merchant peddler , trader edge road or street vendors

The various types that exist today are supported by a general licensing system, with aspects of authority, procedure, and law enforcement. Basically, the permit system consists of:¹⁵

- a. prohibition ;
- b. Consent which is base exception (permission) ; And
- c. Related provisions _ with permission .

There is other terms that have similarity with permission , namely :¹⁶

- a. Dispensation is decision free state administration something deed from power refusal rules _ deed the . So that something regulation Constitution become No apply for something special (relaxation legis) ;
- b. Licence is something granting permission _ right For organize something company . Licence used For state something permitted permission _ somebody For operate company with permission special or special ; And
- c. Concession is something permission relate with great job where interests _ general involved tight once , so Actually work That become task government , however government given right For maintenance to concessionary (holder permission) which it is not official government . shape Can form contractual or combination between licence with granting a certain status with rights and obligations as well as conditions certain .

With dispensation so another model license from form permission For do rights and relationships decision to something freed _ to someone given _ official administration .

One side exists service Apostille expected besides can Simplify the licensing process , too of course expected can simplify the verification process on document the public wants used Indonesian citizens abroad , as well as document legalized public _ Apostille abroad for the sake of interest proof on dispute judiciary in Indonesia.

About tool recognized evidence _ in civil procedural law , Article 164 HIR states that " Tools _ evidence , namely :¹⁷

1. Written evidence , (KUHPerd . 1867 etc . ; IR. 165, 168; S. 1867-29.)
2. Witness evidence , (KUHPerd . 1895; IR. 168 etc.)
3. Prejudice , (KUHPerd . 1915; IR. 173.)
4. Confession , (KUHPerd . 1923 etc . ; IR. 174 etc.)
5. Oath , (KUHPerd . 1929 etc . ; IR. 155 etc. , 177, 381.)

According to Sudikno Mertokusumo , proof logical meaning , conventional and juridical . In a logical sense , it is give absolute certainty .¹⁸In civil procedural law , there is a number of tool possible evidence filed in system civil procedural law , including :¹⁹

- a. Proof of Letter / Written

Letter proof or proof written is all something loading signs intended reading For pour out content heart or For convey thinking someone and used as proof Besides that , trait he wrote something agreement in form deed can used as tool proof later day . Deed shared into 2 (two), namely :

¹² *Ibid.*, p. 47

¹³ *Ibid.*, p. 47-48

¹⁴ I Nengah Suharta, *Supervision of Industrial Licensing*, Denpasar: Udayana, 2015. p. 4

¹⁵ *Ibid.*, p. 5

¹⁶ *Ibid.*, p. 5-6

¹⁷ Yustisia Vision Team, *Civil Code and Civil Procedure Code* , Yustisia Vision, Jakarta, 2016. p. 348

¹⁸ Bambang Winarto, *Notary Awareness of His Position Obligations*, Jakarta: UIN Press, 2014. p. 13

¹⁹ Fernando Kobis, *Proof of Letters in Civil Procedure Law*, Kencana, Jakarta, 2018. p.28

1) Deed Authentic

kindly theoretical deed authentic is letter or deed since beginning with on purpose in a manner official made For proof . kindly dogmatic according to Article 1868 of the Civil Code deed authentic is deed in the form determined law and made by or in front of employees ruling general For That in place Where akata he made . Based on Article 1868 Civil Code , notary the only one official authorized general make deed authentic . Deed authentic has 3 (three) types strength proof namely :

- a) Strength proof formal , prove between the parties that they Already explained what is written in deed such ;
- b) strength proof matter , prove between the parties that truly that event in deed That has happened ;
- c) Strength bind , prove between the parties and parties third , that on that date in the relevant deed has facing to employee general earlier and explained what is written in deed the . because concerns party third , then mentioned that deed authentic have strength proof out (outsiders) .

2) Deed below Hand

Deed below hand is intentional deed made For evidence by the parties without help from a official , so solely made between interested parties . In deed below hand strength proof almost The same with deed authentic , the difference lies in strength proof out , which is not owned by the deed below hands .

3) letters Others that are not Deed

letters others who are not is deed , in law proof as proof free , that is is submitted to the judge. In practice letters sort of That often used For compile guess .

Apostille is A mark given to a document according to the specified format in a manner internationally by the competent authority from the issuing country document For signify authenticity document the . Required or nope Apostille by a agency For A document from Indonesia depend on the considerations of each agency . However so , p This often required so that suggested For submit application Apostille with immediately so as not to raises lateness to ahead²⁰

Documents issued member state agencies The Hague Convention 1961 no need legalized and replaced with sticking apostille its product form certificate whereas legalization usually form sticker . Documents issued Belarus agency however no attachments yet Apostille can sent through diplomatic channel documents the will sent to Belarus for get Apostille and after procedure This will returned to twitch Big Belarus, procedure the process for 2-3 months .²¹

Apostille simplify legalization process chain to document public . The one and only the required formalities For authorize authenticity sign hands , capacity signature , and identity seal or stamp affixed , is with add recognized certificate as " Certificate Apostille ". Certificate Apostille issued by the Authority Competent (as explained below) above application from the person signing document the or carrier . kindly General , Certificate Apostille published in a manner printed . However , it is also possible to have a Certificate Apostille published in a manner electronically (" **E-App** "). A number of Authority Competent in several countries to issue E-App for published public documents in a manner electronics . E-App issuance can also be issued by the Authority Competent in Indonesia, because a number of document public (eg : document land , and NIB) can published in form electronics and usage sign hand electronic has recognized . Besides That The government also publishes Regulation of the Minister of Law and Human Rights Man Number 6 of 2022 concerning Service Apotile , last June 2022 For set procedures service Apostille in Indonesia, for the sake of convenience development economy in the field trying , and interesting foreign investor interest nor local For Want to develop condition Indonesia's long-standing economy This difficult For growing .

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In Indonesia, notary is official public . With thus , any instrument or deed drawn up by a notary that describes obligation law or formally recorded or verify every deeds that have done or agreed is document public .

4. Certificate official attached to the signed document individual in authority civil law

One side in accordance Max Weber 's earlier theory stated authority according to Max Weber should based on provisions existing law (constitution) , so authority the is legal authority , where uthority Apostille basically given to the Ministry of Law and Human Rights Man based on provision Article 2 Permenhumkam Number 6 of 2022, which states , " organization Apostille carried out by the minister through Director General " while referred to minister

²⁰Zulfa Joko Basuki, *The Possibility of Indonesia Accessing The Hague Convention Abolishing Of Requirement Of Legalization For Foreign Dvoment Public*, UI Press, Jakarta, 2022.p.5

²¹Pawit Sutrisno, *Legalization of Documents in International Law*, Ministry of Law and Human Rights of the Republic of Indonesia, Jakarta, 2023. p. 27

based on Article 1 point 7 Article 2 Permenhumkam Number 6 of 2022, which is meant minister is minister of the Ministry of Law and Human Rights Human , while the intended Director General is Director General General Law Administration Ministry of Law and Human Rights human .

There is provision the on naturally clarify authority sole Ministry of Law and Human Rights Man in carry out function from Apostille Where umbrella law the given through exists Permenhumkam Number 6 of 2022. Where is it authority sole by the Ministry of Law and Human Rights Man in carry out function legalization document public through service Apostille naturally is exists real government in simplify jurisdiction over the legalization process document public of course expected can increase development nor the economy of the republic of Indonesia, good through investment foreign from both abroad and increase condition economy overseas communities , however with exists legalization from apostile as if raises dualism authority in the legalization process between apostile with notary .

CONCLUSION

Protection law to legalization documents made by Apostille in Indonesia, there are two forms protection law that is preventive and repressive , where protection law preventive on legalization document made by Apostille that is protection on verification authenticity on documents legalized by Apostille , protection in form convenience in access service Apostille , and protection in form certainty law from exists certificate Apostille issued by the Ministry of Law and Human Rights. As for protection repressive as arranged in Article 4 paragraph 2 and 3 of the Minister of Law and Human Rights Number 6 of 2022 concerning Service Legalization Apostille On Public Documents however need scrutinized that with needed exists legalization by apostille to document created _ or legalized by a notary , as it were reflect that document created or legalized by a notary as if No own mark protection law for holder .

Authority sole Ministry of Law and Human Rights Man in carry out function from Apostille own umbrella law in Article 4 paragraph 2 of the Minister of Law and Human Rights Number 6 of 2022. Where is it authority sole by the Ministry of Law and Human Rights Man in carry out function legalization document public through service Apostille naturally is exists real government in simplify jurisdiction over the legalization process document public For can increase development nor the economy of the republic of Indonesia, good through investment foreign from both abroad and increase condition economy overseas communities , however with exists legalization from apostile as if raises dualism authority in the legalization process between apostile with notary .

SUGGESTION

Recommended need exists regulation specially set function and position law document legalized public through service Apostille For give guarantee assurance and protection law document legalized public through service Apostille , where regulation or rule the expected No affect the deed or document created nor legalized by a notary .

There is function Apostille naturally expected can help simplify the process document public , however suggested exists service Apostille naturally need accompanied with exists effort prevention to abuse document legalized public Apostille , both legalized in Indonesia and abroad , This caused Service apostile This Still own lack in Permenhumkam no 6 of 2022 namely in the verification process in question in where is chapter 4 ? effort verification the specifically for document published public through Notary , of course need sufficient cooperation big from Notary Public for the inspection process stamped , sign hand (original as well as on documents electronics), as well issued seals , however with exists legalization apostile as if raises dualism authority in the legalization process document created nor those who have legalized by a notary .

REFERENCE

A. BOOKS

1. Adrian W. Bedner, and Cekli Setya Pratiwi, *General Principles of Good Governance*, UI Press, Jakarta, 2018.
2. Bambang Winarto, *Notary Awareness of His Position Obligations*, Jakarta: UIN Press, 2014.
3. Fernando Kobis, *Proof of Letters in Civil Procedure Law*, Kencana, Jakarta, 2018.
4. H.. Riduan Syahrani, *The Ins and Outs and Principles of Civil Law*, Bandung: Alumni, 2014.
5. H. Rukmana Amanwinata, *Law, Human Rights, and Democracy*, Unpad Press, Bandung, 2019.
6. H. Subardjo, *Introduction to Law*, Markumi, Yogyakarta, 2015.
7. H. Suparto, *The rule of law, democracy and judicial power in Indonesia*, Bina Karya, Jakarta, 2019.
8. Habib Adjie, *Thematic Interpretation of Indonesian Notary Law*, Jakarta: Narotama Press, 2014.
9. Hotma P. Sibuea, and Dwi Seno Wijanarko, *Dynamics of the rule of law*, Raja Grafindo Persada, Jakarta, 2020.
10. I Ketut Oka Setiawan, *Civil Law Concerning People and Materials*, Jakarta : FH Utama, 2011.
11. Jan Michiel Otto, and Sulistyowati Irianto, *Socio-Legal Studies: Series of Building Elements of a Law-State Building*, UI Press, Jakarta, 2016.
12. Januarase H. Djami Riwu, *Main Materials of Civil Law*, East Nusa Tenggara: Nusa Cendana Press, 2014.
13. Kamarusdiana, *Legal Philosophy*, UIN Syarif Hidayatullah, Jakarta, 2018.
14. Laila M. Rasyid, and Herinawati, *Module Introduction to Civil Procedure Law*, Lhokseumawe : Unimal Press, 2015.
15. Central Board of the Indonesian Notary Association, *Identity of the Indonesian Notary* , Jakarta: Gramedia Pustaka Utama, 2008.

16. Philip Alston, and Frans Magnis Suseno, *Law and Human Rights*, Pusham UII Press, Yogyakarta, 2018,
17. Runi Tusita and Sophia Rengganis, *Pocket Book of Notary Law*, Jakarta : PWC Press, 2015.
18. Subekti , *Fundamentals of Civil Law*, Bandung: Intermasa, 2016.
19. Widodo Ekatjahjana, *State of Law, Constitution and Democracy* , Jember UniversityPress, 2015.
20. Widodo Ekatjahjana, *Dynamics in the Administration of the State Administration System* , Jember UniversityPress, 2015.
21. Yulia, *Textbook of Civil Law*, Lhokseumawe: BieNa Education , 2015.

B. LEGISLATION

1. Republic of Indonesia, Fourth Amendment to the 1945 Constitution
2. Republic of Indonesia, Civil Code
3. Republic of Indonesia, Law Number 30 of 2004 concerning the Position of Notary
4. Republic of Indonesia, Law Number 2 of 2014 concerning the Position of Notary
5. of Indonesia, Law (UU) Number 20 of 2016 concerning Trademarks and Geographical Indications
6. Republic of Indonesia, Regulation of the Minister of Foreign Affairs Number 09/A/KP/XII/2006/01

C. JOURNALS AND ARTICLES

1. Annisa Fitria, *Thesis Journal, Legal Aspects of Notary Deeds Made outside the Notary's Office Area*, Esa Unggul University, Jakarta, 2021.
2. Erlinda Saktiani Karwelo, *Thesis Journal, Prospects for Reading and Signing of Notary Deeds via Video Conference* , Brawijaya University, Malang, 2021.
3. Gideon, *Thesis Journal, Legal Certainty of Deeds in the Form of Electronic Documents Based on the Cyber Notary Concept as Proof in Court*, Jayabaya University, Jakarta, 2020.
4. Junita Faulina, *Thesis Journal, Legal Position of Notary Deed Applying the Cyber Notary Concept during the Covid 19 Pandemic*, Lambung Mangkurat University, Banjarmasin, 2022.
5. Maulida Luthfiyatul Azizah, *Thesis Journal, Juridical Study of Deed Signing by a Notary outside the Office based on certain reasons*, Gajahmada University, Yogyakarta, 2022.