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Legalization of Cooperative Legal Entity by Notary Author of Cooperative Deed  
through Online System Services

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**Abstract**

The transfer of the cooperative legal entity endorsement system which was originally managed by the Ministry of Cooperatives and Small and Medium Enterprises delegate authorization of cooperative legal entities to the Ministry of Law and Human Rights system, impacting the legal certainty of a Notary, in carrying out his duties and positions as the Notary<sup>1</sup> Maker of the Cooperative Deed. The problem raised is how is the process of ratifying a cooperative legal entity by a notary maker of a cooperative deed through an online system service? And due to the law, the cooperative deed is not registered by the notary of the cooperative deed in the Legal Entity Administration System. By using a Normative juridical approach. The process of ratification of a Cooperative legal entity through the Administrative Service System of a Cooperative Legal Entity to the Legal Entity Administration System system by a Notary encountered problems in his field practice, where Cooperatives registered in the Cooperative Legal Entity Administration System service system are requested to be changed to the Legal Entity Administration System in the case of applying for a loan of funds by cooperatives to third parties, namely banks. Legal rules regarding the legal ratification process of a cooperative in the making, amendment and ratification, by the Cooperative Deed Notary Public should be rearranged, making it easier for Notaries to carry out their duties as general officials of the Cooperative. Socialization to the community is also expected, especially to the Cooperative actors against the validity of the Cooperative Deed that was ratified by the Ministry of Cooperatives through the Cooperative Legal Entity Administration System Service system, without re-authorizing the Legal Entity Administration System under the Ministry of Law and Human Rights. It is expected to be able to open up insights on cooperative actors and other third parties related to the ins and outs of cooperatives such as banks as providers of funds in carrying out cooperative savings and loan activities.

**Keywords:** Cooperative Legal Entity Administration System; Legal Entity Administration System; Notary Maker of Cooperative Deed

**Introduction**

A cooperative is an association or economic organization consisting of persons or entities, which gives freedom of entry and exit as members according to existing regulations, by working together as a

family to run a business, with the aim of enhancing the physical welfare of its members<sup>1</sup>. The definition above, can be seen elements of the cooperative that is the association of people who are socially based, cooperative membership has no compulsion and is voluntary, aims to improve the welfare of members by working together in a family way.

Cooperative Law Number 25 of 1992 concerning Cooperatives, in Chapter I General Provisions Article 1 Part one, stated that a cooperative is a business entity whose members are individuals or cooperative legal entity by basing activities based on cooperative principles as well as a people's economic movement based on the principle of kinship. Cooperatives also have a positive impact on small and medium groups in rural areas in an effort to meet the needs of the members of the cooperative.

Chapter II, Part Two, Article (3) Law Number 25 of 1992 concerning Cooperatives, contained in the goals of Indonesian cooperatives, namely: "Promoting the welfare of members in particular and society in general as well as helping build national economic order in order to realize an advanced, just society, and prosper based on Pancasila and the 1945 Constitution ". The main objective of the cooperative is to improve the living standards and welfare of its members. In principle, a cooperative is not a profit-seeking business like a Limited Liability Company. The goals of the Cooperative are in accordance with the composition of the lives of the Indonesian people. Even though there are always obstacles, but the cooperative is still developing. Along with the development of society, the legislation used is also developing. The development and changes in the legislation are intended to be able to keep abreast of the times.

In the Decision of the Constitutional Court No. 28 / PUU-XI / 2013, with respect to Article 1 number 1 of Law Number 17 of 2012 concerning Cooperatives which states cooperatives as legal entities do not contain substantive meaning, refer to the understanding as a typical company building. This is not in line with cooperatives as referred to Article 33 paragraph (1) of the 1945 Constitution. So that Law Number 25 of 1992 concerning Cooperatives is valid again after the Constitutional Court annulled Law Number 17 of 2012 concerning Cooperatives.

Cooperatives in carrying out their functions and duties and creating legal certainty for the business activities carried out, the cooperative must be registered and have legal entity status. Cooperatives with legal status are legal subjects, so that they have rights and obligations that must be fulfilled in carrying out their business activities. In Act Number 25 of 1992 concerning Cooperatives emphasizing the granting of the legal entity status of cooperatives, ratification of amendments to the Articles of Association and Guidance is the authority and responsibility of the government.

The granting of the legal entity status can be obtained after the deed of establishment of the cooperative is ratified by the Government. The government that has the authority in this matter is the minister whose tasks and responsibilities cover the affairs of cooperatives. Legal certainty in carrying out cooperative business activities, must go through a process that has been determined to obtain legal status. Making a deed of establishment of a cooperative is a process that must be carried out in order to obtain the status of a legal entity whose authority to make the deed is carried out by a notary.

Notary Public is the only official who is authorized to make an authentic deed regarding all deeds, agreements and stipulations required by a general regulation or by the interested parties to be stated in an authentic deed, guarantee the certainty of the date, save the deed and give the grosse, copies and excerpts, all during the making of the deed by a general regulation are also not assigned or excluded to officials or others.<sup>2</sup>

<sup>1</sup> Nindyo Pramono, Several aspects of cooperatives in general and Indonesian cooperatives in development, TPK Gunung Mulia, Yogyakarta, 1986. page. 9.

<sup>2</sup> Tobing, G.H.S. Lumban, Regulation of the Position of Notary Public, Erlangga, Jakarta, 1992, page. 3.

The Cooperative Legal Entity Administration Service System is expected to be able to provide convenience for users (Notaries) in submitting a Decree of a cooperative legal entity and in the process of changing the articles of association of the cooperative. With this system it is also expected that the submission process related to cooperative legal entities can be processed faster, easy, cheap and safe.<sup>3</sup> Based on data from the Ministry of Cooperatives and Small and Medium Enterprises from 11,966 Notaries of Cooperative Deed Makers, only 2,500 Cooperative Deed Makers or 21% have registered.<sup>4</sup>

From the description above, in the implementation there are still many Notary Cooperative Deed Makers who are not ready or not yet willing to register with the system provided by the Ministry of Cooperatives for Small and Medium Enterprises, this is a problem that must be solved jointly by the Ministry of Small Business Cooperatives and Intermediate with the Indonesian Notary Association so that the Notarial Cooperative Deed Makers can carry out their duties and positions in order to realize legal certainty in the midst of the community.

The socialization conducted by the relevant ministries has not yet reached all notaries of cooperative deed makers, and the lack of notary knowledge on the development of the system has an impact on the small number of notaries who have access codes to be able to register the legal entity of the cooperative. The validation of the legal entity is carried out on the Cooperative Legal Entity Administration System which is managed by the Ministry of Cooperatives for Small and Medium Enterprises.

The government's desire to provide online one-stop services, give impact to the Notary of the Cooperative Deed Maker. The perceived impact is the uncertainty of the law in carrying out its duties and positions. This is due to the shift in the legal system of cooperating legal entities which was originally managed by the Ministry of Cooperatives and Small and Medium Enterprises to delegate the legal entity's cooperation to the Ministry of Law and Human Rights system.

Policies issued by the government are not in line with the readiness of the system to be used, so that the Ministry of Law and Human Rights as the recipient of authority in the ratification of a cooperative legal entity can not run it. From the problems above, Which legal rules must be used in carrying out their duties and positions as the Notary Public of the Cooperative Deed. Are the legal rules in Government Regulation of the Republic of Indonesia Number 24 of 2018 Concerning Electronic Integrated Business Licensing Services or return to the legal rules issued by the Ministry of Cooperatives for Small and Medium Enterprises.

### **Research Method**

The method of approach used in this study is the empirical approach. Where the approach to the problem is carried out by examining various aspects of law. The normative juridical approach is used by looking at the laws and regulations governing the professional position of the Cooperative Deed Acting Officer, so that it will be known legally about the authority of the Cooperative Deed Officials in carrying out their duties and functions for the ratification of a deed registered on a system that has been built by the government. The approach used in responding to the problems that have been formulated is to use the law approach (*statute approach*). Through this approach, the researcher will examine the laws and regulations related to the legal issues being studied. Synchronization between legislation and existing cases will help researchers in building a legal argument and solving the issues.

<sup>3</sup> [https://sisminbhkop.id/downloads/Guide\\_to\\_Notariss\\_dan\\_Dinas.pdf](https://sisminbhkop.id/downloads/Guide_to_Notariss_dan_Dinas.pdf), Guidelines for Notaries and Offices, accessed on 7 August 2019, at 18:00 WIB.

<sup>4</sup> <https://finance.cash.co.id/news/new-21-Notary-Public-deed-cooperative-sisminbhkoplist>, the number of notaries registered with the SISMINBHKOP system will be accessed on April 2, 2019, at 10:00 WIB.



## Result and Discussion

Popular economy conducted by the government based on the 1945 Constitution of the Republic of Indonesia (the Basic Law) based on the principle of togetherness, efficiency, being fair, sustainable, environmentally friendly, independent, and maintain a balance of progress together to realize community welfare. In running these economic activities, as well as to obtain legal certainty for the community, it is necessary for a Notary as a public official to make a deed as evidence in the form of an "Authentic Deed".

Understanding of notary public in Republic of Indonesia Law No. 2 of 2014 concerning Amendment to Law Number 30 Year 2004 concerning the Position of Notary. Article 1 Act No. 30 of 2004, Notary Position, explained that Notary is "General official who is authorized to make an authentic deed and has other authorities as referred to in this Law or based on other Laws". Judging from the understanding, Notary Public is concluded that the task and function of the notary is to provide certainty to the interests of the community. Notary is a legal profession, thus the notary profession is an *officium nobile*. Named as *officium nobile* because the profession of notary is very closely related to humanity. Deed made by a notary public can be the legal basis for the status of property, one's rights and obligations. Mistakes in notarial deeds can result in deprivation of a person's rights or the imposition of someone on an obligation.<sup>5</sup>

As for the other authorities, the Notary Public General is given the authority based on the Law in making an authentic deed to establish a business entity, namely a cooperative. Notary as a Cooperative Deed Maker is regulated in a Decree of the State Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number: 98 / KEP / M.KUKM / IX / 2004 dated September 24, 2004 concerning Notary as a Cooperative Deed Maker.

The notary definition of the Cooperative Deed Maker as regulated in Article 1 paragraph 4 of the Decree of the State Minister for Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number: 98 / KEP / M.KUKM / IX / 2004 is General Officers who are appointed based on the Notary Position Regulations which are given authority, among others, to make the deed of establishment, deed of amendment to the articles of association and other deeds related to cooperative activities. The notary definition of the Cooperative Deed Maker is also contained in Article 1 paragraph 23 of the Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 09 of 2018 Regarding the Implementation and Development of Cooperatives, explained as follows: Notary Maker of Cooperative Deed is a Notary that has been established or registered as Notary Maker of Cooperative Deed by the Minister of Cooperatives and Small and Medium Enterprises. Understanding of Notarial Cooperative Deed Makers, , when the deed authorization authority is under The Ministry of Cooperatives is still explaining the notion of the Cooperative Deed Notary Public, however, after the Minister of Cooperatives and Small and Medium Enterprises Regulation No. 09 of 2018 Concerning Implementation and Development of Cooperatives is revoked by issuing a Minister of Law Regulation and Human Rights of the Republic of Indonesia Number 14 of 2019 Regarding Ratification of Cooperatives, it does not mention the definition of Cooperative Deed Notary Maker. The explanation contained in the regulation is limited to the applicant granting power of attorney to the notary.

According to Abd. Wahab Wajo, there is a difference in understanding between "Notary as the maker of the Cooperative Deed" with "Notary Maker of Cooperative Deed", where the Notary as the Cooperative Deed Maker means that the public official is a Notary, whereas "Notary Maker of Cooperative Deed is the name of the position itself.<sup>6</sup> From the above opinion it can be concluded that the position carried out by a notary with cooperatives is called the Notary Maker of the Cooperative Deed while the deed drawn up by the notary is the duty of his position as a public official.

<sup>5</sup> Abdul Ghofur Anshori, 2009. Indonesian Notary Institution, Legal Perfection and Ethics, Yogyakarta: UUI Press, page. 7.

<sup>6</sup> Abd. Wahab Wajo, "Birth of a Notary Maker of Cooperative Deed-Role of the Indonesian Notary Association Dwarfs Notary Authority (Denial of AD and THIS Code of Ethics itself), Renvoi, June 2005.

The Cooperative Law does not regulate the notarial deed of establishment of a Cooperative, The signing of an agreement between the Ministry of Cooperatives and the Indonesian Notary Association, then the authority of the notary public officer is getting wider. Cooperative Deed Notary Maker is a Public Official who is appointed based on the Notarial position regulations, who was authorized to make a deed of independence, deed of amendment to the articles of association, and other deeds related to cooperative activities.

The duties of the Notary Public as a Cooperative Deed Maker as stipulated in Article 3 paragraph (1) Decree of the State Minister for Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number: 98 / KEP / M.KUKM / IX / 2004, namely: Making an authentic deed as proof of a certain legal act in the establishment process, amendments to the articles of association and other deeds related to cooperative activities for approval of authorization from authorized officials.

The only people's economic business entity is a cooperative. A group of people like a farmer, government employees, factory workers, artisans, can jointly run a cooperative business. Various business fields can be run by cooperatives. According to the nature of the business known as the consumption cooperative, savings and loan cooperatives, Production cooperative. Cooperative business entities can also run businesses in agriculture, animal husbandry, folk crafts and in other fields. In its development many community leaders emerged who wanted to establish cooperatives. The people really hope for honest people who really want to bring business together, cooperative businesses whose benefits can be shared.<sup>7</sup> This desire is strongly supported by the community which has an impact on local cooperative activities.

The cooperative succeeded in making progress while simultaneously fulfilling two expectations namely: First will increase member welfare, the second provides benefits to the general public. The function of cooperatives in Indonesian Democracy as one of the arteries of the Indonesian nation's economy is to achieve a just and prosperous society.

To obtain a legal body for a cooperative association when it applies Law Number 79 of 1958 concerning Cooperative associations is regulated in the Office's instructions No. 1/1960 ways of organizing cooperatives have several changes to date. Due to the enactment of Law Number 12 of 1967, then the official instructions were replaced with instructions from the Director General of Cooperatives No. 3 / Ins / Dirjen / Bangwas / 68, dated March 4, 1968. In the official instructions there are several principles, how to establish, dissolve, the right to appeal Cooperatives and others.<sup>8</sup>

Government Regulation No. 60 of 1959 concerning the Development of the Cooperative Movement (contained in Supplement to the State Gazette No. 1907). This regulation was made as an implementing regulation of Law No. 79 of 1958 concerning Cooperative Association and is an improvement of things that have not been regulated in the Act.

After the enactment of the aforementioned law for 25 years, then issued Law Number 25 of 1992 concerning Cooperatives. This law is intended to clarify and reinforce identity, the purpose, position, role, management, entrepreneurship and capital of cooperatives as well as fostering cooperatives so as to better guarantee the realization of cooperative life as mandated by the 1945 Constitution.

According to Article 3 paragraph (2) Decree of the State Minister for Cooperatives and Small and Medium Enterprises Number 98 / KEP / M.KUKM / IX / 2004, Notary has the main duties include making a deed of establishment of cooperatives, deed of amendment to the Cooperative articles of association and other deeds related to Cooperative activities. Thus it can provide protection and legal certainty for the people who form cooperatives.

<sup>7</sup> Arifin Chaniago, developments in Indonesia, space, Bandung, 1979, page. 120.

<sup>8</sup> Drs. Arifinal Chaniago, Indonesian Cooperative, Angkasa, Bandung, 1979, page. 120.

Form of Deed of Establishment, amendments and other deeds relating to Cooperative activities are made in the form and content in accordance with applicable laws and regulations. (Article 7 Decree of the State Minister for Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number: 98 / KEP / M.KUKM / IX / 2004).

Article 9 of the Decree of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number: 98 / KEP / M.KUKM / IX / 2004 contains : (a) Making the deed of establishment, amendments to the articles of association of cooperatives for primary and secondary cooperatives at the Regency / City, Provincial and National levels, is the authority of the Notary in accordance with the position of the cooperative office. (b) Specifically for cooperatives domiciled in the Special Capital Region of Jakarta, the establishment of deed of establishment and amendment to the articles of association of the cooperative are the authority of a Notary domiciled in the Special Capital Region of Jakarta.

In its development, a Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 09 of 2018 concerning Cooperative Management and Implementation was issued. The regulation has very prominent differences. The difference is contained in Article 1 number 23 explains the Notary Maker of Cooperative Deed, here in after abbreviated as Notarial Cooperative Deed Maker is Notary that has been established or registered as Notary Maker of Cooperative Deed by the Minister of Cooperatives and Small and Medium Enterprises. There are policies and requirements to become a Notarial Cooperative Deed Maker, then the notary must follow the Education and Training organized by the Cooperative service in collaboration with the University, especially the Faculty of Law which has a notary study program. In the implementation of the notarial deed making training cooperatives that were targeted to take part in the training were Notaries, Extraordinary Members and Final Year Students. This information is also in line with the explanation that was put forward by Mr. Azmi Afendri as the coordinator of the Notary Magister Study Program at the Faculty of Law of Andalas University during the cooperative training program in Padang on September 12, 2019.

Article 1 number 26 contains the Cooperative Legal Entity Administration System hereinafter referred to as Cooperative Legal Entity Administration Service System is information technology services equipment Ratification of the Cooperative Establishment Deed and Electronic Articles of Association amendments organized by the minister. The Cooperative Legal Entity Administration Service System is an innovation implemented by the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia in order to facilitate the filing of the deed made by the Notarial Cooperative Deed Maker.

Article 13 Paragraph (1) explains that to be approved by the deed of establishment of a cooperative, the founders or the founding attorneys submit written requests for authorization to the minister by using the Cooperative Legal Entity Administration Service System by enclosing:

- a. Two copies of the Cooperative establishment certificate, one of which is sufficiently stamped;
- b. Minutes of the meeting of the establishment of the Cooperative, including the granting of power of
- c. attorney to submit an application for endorsement if any;
- d. Proof of capital deposit of at least the same as the principal savings;
- e. Initial plan of cooperative business activities.



## 1) Sharia Cooperative

Based on the Decree of the State Minister for Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 91 / Kep / IV / KUKM / IX / 2004 concerning the Guidelines for Sharia Financial Services Cooperative Business Activities provide understanding that Sharia Savings and Credit Cooperatives or sharia financial services cooperatives are cooperatives whose business activities are engaged in financing, investment and savings in accordance with the profit sharing pattern (sharia).<sup>9</sup> Thus all Baitu Maal wa al Tanwil abbreviated as BMT in Indonesia can be classified in the Islamic Financial Services Cooperative, has a legal and legal umbrella for its operational activities as long as it complies with applicable laws and regulations.

In accordance with the decision of the State Minister for Cooperatives and Small and Medium Enterprises regarding guidelines for carrying out Sharia Financial Services Cooperative business activities Chapter II Article 2, the objectives of developing the Sharia Financial Services Cooperative / Sharia Financial Services Unit, namely: a). Increasing economic empowerment programs, especially among micro, small, medium and cooperative businesses through the sharia system. b). Encouraging sharia economic life in micro, small and medium business activities in particular and the Indonesian economy in general.

Sharia Cooperatives are familiar with the Sharia Supervisory Board. The Sharia Supervisory Board has a legal basis for its formation namely: Permenkop and Small and Medium Enterprises Number 16 / PER / M.KUKM / IX / 2015 Concerning Cooperative Savings and Loan and Business Financing Activities. Duties, Authorities and Responsibilities of the Sharia Supervisory Board according to the provisions of Article 27 PBI No.6 / 24 / PBI / 2004 are as follows: Duties of the Sharia Supervisory Board, ensure and oversee the suitability of bank operational activities with the fatwa issued by the National Sharia Board. Authority of the Sharia Supervisory Board, assess aspects of sharia against operational guidelines, and products issued by banks. The responsibility of the Sharia Supervisory Board, to submit a report on the results of sharia supervision at least every 6 months the directors, commissioners, National Sharia Board and Bank Indonesia. In the Fatwah of the National Sharia Council No. 03 of 2000 concerning Guidelines for Implementing the Determination of Members of the Sharia Supervisory Board: Islamic financial institutions apply for the appointment of members of the Sharia Supervisory Board to the National Sharia Board or the Indonesian Ulema Council.

Cooperatives holding sharia financing savings and loan activities must have a Sharia Supervisory Board established by the Members' Meeting. The Sharia Supervisory Board has at least 2 people and half of them are the National Sharia Council or the Indonesian Ulema Council. Sharia Cooperatives prioritize the Sharia Supervisory Board of Cooperative members and can be appointed from outside the cooperative members for a maximum term of 2 years. The duties of the Sharia Supervisory Board on Sharia cooperatives are: provide advice and suggestions to the management and supervisors and the supervision of Sharia Cooperative activities in accordance with sharia principles, request a fatwa from the National Sharia Council or the Indonesian Ulema Council for new products that do not yet have a fatwa and conduct periodic reviews of new products for which there is no fatwa. The difference between conventional cooperatives and sharia cooperatives is that there is no Sharia Supervisory Board in conventional cooperatives in terms of supervision.

## 2) Ratification Process of Cooperative Legal Entity

The process of ratification of a cooperative legal entity which includes the ratification of a certificate of incorporation, amendments to the articles of association and the dissolution of cooperatives

<sup>9</sup> Ahmad Ifham Sholihin, General Guidelines for Islamic Financial Institutions, p.456.



as stipulated in the Regulation of the Minister of Cooperatives and Small and Medium Enterprises Number 09 of 2018 regarding the Implementation and Development of Cooperatives above is declared no longer valid based on the Regulation of the Minister of Law and Human Rights that have been enacted. The Minister of Law and Human Rights Regulation comes into effect after 3 months from the date of promulgation or 28 September 2019. Furthermore, with the enactment of Minister of Law and Human Rights Regulation No. 14 of 2019 concerning Ratification of Cooperatives, then the application for ratification of the establishment deed, amendments to the articles of association and the dissolution of cooperatives submitted to the Minister of Law and Human Rights to the Directorate General of General Law Administration, through the Legal Entity Administration System.

The process of establishing and ratifying a deed for establishing a cooperative online through the Legal Entity Administration System under the Minister of Law and Human Rights where Cooperative Counseling is carried out by the ministries and / or offices in charge of the Cooperative. Establishment of Cooperatives must meet a minimum of 20 people, starting with a formation meeting attended by the Ministry and / or department in charge of Cooperatives or Notaries, the power of attorney submits the minutes of the establishment meeting and documents to the Notary for the establishment deed. The role of the notary is very important in the next process which is concerned with uploading it online through the Legal Entity Administration System of the Minister of Law and Human Rights which contains the minutes of the establishment and the deed of establishment. Decree of ratification of the establishment of a cooperative is printed by a notary and submitted to the founder of the cooperative. The final process in establishing a cooperative is to announce a decree in the State news. After going through all the stages, the cooperative has a legal entity in carrying out its business activities.

As for the problems in delegating authority over the ratification of a cooperative legal entity, namely the authorizing authority that was once held by the Ministry of Cooperatives and the Republic of Indonesia Small and Medium Enterprises in the Cooperative Legal Entity Administration Service System online system was transferred to the Ministry of Law and Human Rights in the Legal Entity Administration System online system. The transfer is not in line with the preparation for the acceptance of the authority granted, because at that time the transition was notoriously difficult to access the legal entity ratification registration.

The authority has an important position in the study of constitutional law and administrative law. The importance of such authority so that F.A.M Stoink and J.G Steenbeek stated: “ *Het Begrip bevoegdheid is dan ook een kembegrip in he staats-en administratief recht.* “. <sup>10</sup>From the above statement, an understanding can be drawn that authority is a core concept of State administration and Administrative law.

The principle of legality is the basis of the legitimacy of government actions. So that every state and government administration must have legitimacy, namely the authority granted by the Act. According to the Big Indonesian Dictionary, authority is the power to make decisions to govern and delegate responsibilities to others.

Article 1 number 5 of Law Number 30 of 2014 concerning Administration of government authority is the right owned by government bodies and / or officials or other state organizers to make decisions and / or actions in the administration of government, As for the authority of government, hereinafter referred to as authority is the authority of governmental bodies and / or officials or other state organizers to act in the realm of public law (Article 1 number 6).

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<sup>10</sup> Nur Basuku Winanmo, Abuse of Authority and Corruption, Laksbang mediatama, Yogyakarta, 2008, page. 65.

Legally the source of authority is regulated in Law Number 30 Year 2014 concerning Government Administration, containing three authorities, namely:

1. Attribution authority is the granting of authority by the legislators themselves to a government organ, both existing and completely new.
2. Delegation Authority is the delegation of an authority that already exists by a State Administrative Agency or Office that has obtained attributive government authority to other State Administration Bodies or Positions.<sup>11</sup>
3. A mandate is the granting of authority by a government organ to another organ to make decisions on its behalf.

From the three sources of authority above in the discussion of this thesis, the authority of the Delegation is where an authority delegation occurs by the government to another State Administrative Agency or Position, the component of influence is the use of the intended authority to control the behavior of legal subjects, the basic components of the legal authority must always be appointed by the legal basis, and components of legal conformity, implies the existence of a standard of authority both overall and specifically.

If the theory of authority is associated with problems in writing this thesis use the authority of the Delegation where the delegation of legalization of the deed of establishment of the cooperative which was once ratified by the Minister of Cooperatives was transferred to the Legal Meteri and Human Rights based on Minister of Law and Human Rights Regulation No. 14 of 2019 concerning Ratification of Cooperatives, then the application for ratification of the deed of incorporation, amendments to the articles of association and the dissolution of the cooperative are submitted to the Minister of Law, through the Legal Entity Administration System, in the case of delegation authority responsibility and accountability transferred to the authorized. In implementing it to get access to the Legal Entity Administration System, only the notary who makes a cooperative deed that has fulfilled the requirements of the owner and the notary who already has access in the Cooperative Legal Entity Administration System Service will directly switch to the Legal Entity Administration System.

In the process of transfer of ratification of the deed mentioned above, it should be accompanied by counseling and fostering of the Notary Maker of the Cooperative Deed so that the role of the Notary in providing legal certainty for the application for the ratification of the establishment deed, changes to the articles of association and the dissolution of the cooperative can work well. The delegation of authority must be in line with the readiness of the system by the Ministry of Law and Human Rights as the recipient of authority. Guidance on cooperatives and Small and Medium Enterprises in their implementation is carried out by the Ministry of cooperatives and Small and Medium Enterprises of the Republic of Indonesia.

### **Legal Result of Not Registered Cooperative Deed by the Notary Maker of the Cooperative Deed in the Legal Entity Administration System**

Based on the decision on the establishment of the Cooperative Articles of Association, the registration of the articles of association shall be carried out in the Legal Entity Administration System as a legalization of the establishment of the cooperative, which registration is done through a notary, as a cooperative deed official who was appointed by the Deputy for Institutional Affairs of the Ministry of Cooperatives. Registration through several stages, as explained by Christina Agustina, A. Pi, MM as Assistant Deputy Organizations and Legal Entities.

<sup>11</sup> Indroharto, Efforts to Understand the Law on State Administrative Courts, Some basic definitions of state administration law, Book 1, Pustaka Sinar Harapan, Jakarta, page. 91.

Cooperatives The Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia, the stages in question are as follows:<sup>12</sup>

1. Application for ratification of the cooperative is submitted to the Minister of Law and Human Rights Cq. Directorate General of General Legal Administration and through the Legal Entity Administration System.
2. Ratification of the Deed of Establishment of a Cooperative is preceded by a request for submission of the name of the cooperative and approval for the use of the name of the cooperative granted by the Minister electronically.
3. Use of the name of the Cooperative is valid for a period of 30 days from the time the name usage agreement is given.
4. Requests for approval of the Cooperative's deed must be submitted no later than 60 days from the date the deed of establishment was signed.
5. The Ministerial Decree on the deed of establishment is issued when the application is received and submitted to the applicant electronically.

After the registration process is complete, the cooperative's deed of establishment is ratified by the Ministry of Law and Human Rights. Furthermore, Mailani Oktavianti, Bachelor of Laws, Magister of Notary, Notary / Acting Author of Land Deed in Padang City, explain the registration as described above, not much different in the implementation in the field. Registration of cooperative deed that was previously accessed in the Cooperative Legal Entity Administration Service System, under the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia and ratification of the establishment certificate of the cooperative underwent a transition to the Legal Entity Administration System, under the Ministry of Law and Human Rights, hereinafter referred to as the Ministry of Law and Human Rights.<sup>13</sup>

#### **Legal Consequences are not Registered Cooperative Deed in the Legal Entity Administration System**

Not registered the Cooperative Deed with the Legal Entity Administration System at the time of the system transition, from the Cooperative Legal Entity Administration System to the Legal Entity Administration System has no effect on the previous ratification of the Cooperative Deed by the Ministry of Cooperatives of the Republic of Indonesia, but in practice the Cooperatives that have been registered in the Legal Entity Administration System of the Cooperative are required to renew to the Legal Entity Administration System system, This renewal is related to the cooperation carried out by the Cooperative with third parties, such as banks as funders for the implementation of cooperative savings and loan activities, where the third party requests a Cooperative Deed that is already based on the Legal Entity Administration System system, this causes the Notary to experience problems in registering changes to the Cooperative Deed from the Cooperative Legal Entity Administration System system to the Legal Entity Administration System, where in the latest system or Legal Entity Administration System there are several types of cooperatives in the previous Cooperative Entity Legal Entity Administration System system which no longer appear in the Legal Entity Administration System application.<sup>14</sup>

<sup>12</sup> Interview, Christina Agustina, A. Pi, MM as the Assistant Deputy Organization and Legal Entity of the Indonesian Ministry of Cooperatives and Small and Medium Enterprises, on October 10, 2019.

<sup>13</sup> Interview, Mailani Oktavianti, SH, MKn, Notary / Acting Officer for Land Deed in Padang City, 5 August 2019.

<sup>14</sup> Interview, Mailani Oktavianti, SH, MKn, Notary / Acting Officer for Land Deed in Padang City, 5 August 2019.



Other obstacles that the authors found were that the Cooperative Deed was not registered with the Legal Entity Administration System as explained above, there were several obstacles. The constraints referred to are as follows:

1. In the case of the application for ratification of a certificate of incorporation submitted to the Minister of Law and Human Rights not in accordance with the period described by Christia Agustina, A. Pi, MM exceeding a period of 60 (sixty) days from the date the deed of establishment was signed, because of the improvement and synchronization of systems between the relevant ministries.<sup>15</sup>
2. Registration of Cooperative Establishment Deed through the Cooperative Legal Entity Administration Service System which has been approved by the Ministry of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia in the implementation of the field it was suggested by the Padang City Cooperative Service to be changed to the Legal Entity Administration System, according to the Padang City Cooperative Service, if registration through the Cooperative Legal Entity Administration System Service is not changed to the Legal Entity Administration System, maka akta pendirian tersebut dibekukan, sementara itu menurut keterangan Christina Agustin, A.Pi, MM,<sup>16</sup> Registration of Cooperative Establishment Deed through the Cooperative Legal Entity Administration Service System which has been approved by the Ministry of Cooperatives does not need to be registered again with the Legal Entity Administration System, because it has been approved by the Ministry of Cooperatives and the data of Cooperatives that have been approved by the Ministry of Cooperatives have been transferred to the Minister of Law and Human Rights with the following data:
  - a) Total cooperatives in West Sumatra, totaling: 3,624 cooperatives.
  - b) Active cooperatives, totaling: 2,815 cooperatives.
  - c) Inactive cooperatives, totaling: 809 cooperatives.

According to the writer's observation, for deeds that have already obtained legal entity status by the cooperative ministry do not need to be registered again with the Legal Entity Administration System as there are no further rules governing it. This is similar when related to the theory of legal certainty. The theory of certainty is a matter of certainty, provisions or legal provisions must be absolutely certain and fair. Only because it is fair and carried out with certainty the law can carry out its functions. Legal certainty shows that law enforcement is clear, permanent, consistent, and consistent and its implementation cannot be influenced by circumstances that are subjective.

Legal certainty is basically the goal of the law itself which is used to solve problems, according to legal theory, the relationship between justice, legal certainty and usefulness needs to be considered, because a legal certainty is basically not measured in the form of certainty about an act that is appropriate or not in accordance with the law, but rather how the legal arrangements for the actions and consequences. Legal certainty is also a principle in the rule of law that uses the basis of statutory regulations, propriety, and justice in every policy of the administration of the State.<sup>17</sup>

According to Utrecht, legal certainty contains two meanings, namely the first existence of general rules that make individuals know what actions may or may not be done and second, in the form of legal

<sup>15</sup> Interview, Mailani Oktavianti, SH, MKn, Notary / Acting Officer for Land Deed in Padang City, 5 August 2019.

<sup>16</sup> Interview, Christina Agustin, A. Pi, MM, Deputy of the Ministry of Cooperatives of the Republic of Indonesia, 10 October 2019.

<sup>17</sup> Muhammad Hasbi, Deeds Are Not Harmful in Relation to Indonesian Construction Contracts, Dissertation, Postgraduate Program, Andalas University, Padang. 2018. Page. 87.

security for individuals from the arbitrariness of the government because with the existence of general rules that individuals can know what may be charged or done by the state against individuals.<sup>18</sup>

The existence of legal certainty of the community will know the clarity of rights and obligations according to law, without legal certainty people will not know what to do, not knowing what they did was right or wrong, prohibited or not prohibited by law.

### **Conclusion**

Based on the descriptions in the previous chapters, the following conclusions can be drawn:

1. The process of ratification of a Cooperative legal entity by a Notary maker of a Cooperative Deed is having problems with the practice in his field, including the absence of provisions governing the re-registration of the Cooperative Deed that has been approved by the Ministry of Cooperatives through the system Administration System Of Cooperative Legal Services to the Legal Entity Administration System under the Ministry of Law and Human Rights.
2. Cooperative Deed that has been approved by the Ministry of Cooperatives or that has been registered with the system Administration System Of Cooperative Legal Services remains basically valid according to the laws and regulations, namely Article 10 of the Minister of Law and Human Rights Regulation of the Republic of Indonesia Number 14 of 2019 About Ratification of the Cooperative, but in practice the Cooperatives that have been registered with the Cooperative Legal Service Administration System are requested to be changed to the Legal Entity Administration System under the Ministry of Law and Human Rights, in the case of applying for a loan of funds by the Cooperative to a third party namely banks.

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