

Legal Aspects of Electronic Storage of Notarial Deed Minutes

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Abstract. UUJN Amendment Article 1 Number 1 defines a notary as a public official who is authorized to make authentic deeds and has other authorities as referred to in this law or based on other laws. UUJN Amendment Article 16 paragraph (1) letter b states that in carrying out his/her position, a notary is required to make a deed in the form of minutes of the deed and store it as part of the notary protocol. The purpose of the study was to determine and analyze the legal aspects (regulations) of storing minutes of notary deeds electronically and to determine and analyze how to overcome data leaks of minutes of notary deeds stored electronically. The type of research is in the form of normative legal research with a statutory approach method supported by secondary data sources through library data collection and using a prescriptive analysis method. The results of the study are: (1) The legal aspects of storing minutes of notary deeds electronically are proven by the Notary Law not being able to keep up with technological developments that facilitate and provide security for notaries in carrying out their obligations, because there are no norms that regulate notaries so that they can store minutes of deeds electronically. (2) The method for dealing with leaks of notarial deed minutes data stored electronically is to scan the deed minutes file which is then stored on an external hard disk to accommodate the deed minutes document throughout the notary's term of office, create a special deed minutes storage server owned by the notary through the notary professional organization at each regional level and access to view notarial deed minutes stored electronically is only given to parties who have authority over the deed minutes such as notaries and the notary supervisory board which consists of government elements, notary elements and expert or academic elements.

Keywords: Electronics; Legality; Minutes; Professional.

1. Introduction

A notary has the authority to make something called an authentic deed which has implications for all actions, all obligations, agreements, and all provisions and all of these have been stipulated in positive law.¹Notaries are required to apply the principle of caution, especially when storing minutes of deeds, because notaries in carrying out their functions and positions are required to apply the principle of caution in order to protect the interests of the community entrusted to them.²Facts on the ground show that in reality, minutes of deeds are often lost due to many things, such as when the office moves, the lack of responsibility of the notary's office employees, insufficient space to store minutes of deeds, fires and natural disasters (force majeure).³

The legal provisions in the UUJN do not regulate the settlement of damaged or lost minutes of deeds.⁴ A concrete example of the case of the loss and damage of all documents in the notary's office occurred during the natural disaster of the tsunami in the Province of Nanggroe Aceh Darussalam and the Nias Islands of North Sumatra Province which occurred on December 26, 2004.⁵A similar case involving a notary resulting in material losses occurred in the fire at the notary-land deed official (PPAT) office in a three-story shophouse, Jalan Kayon, Embong Kaliasin, Genteng, Surabaya, which occurred on Sunday (12/3/2023) at around 09.15 WIB.⁶

The Notary Position Law does not regulate procedures for storing deed minutes.⁷As for the minutes of the deed, if they are state archives, then it is only

¹Abdullah Dian Triwahyuni. (2020). "Kewajiban Dan Tanggung Jawab Notaris Sebagai Pejabat Umum", *Acta Comitatus: Journal of Notary Law*, Vol. 05, No. 01, p. 2, <https://ojs.unud.ac.id/index.php/actacomitatus/article/view/57118/34373> accessed on 10 December 2023 at 21.00 WIB.

²Brilian Pratama, Happy Warsito and Herman Adriansyah. (2022). "Asas Kehati-hatian Dalam Pembuatan Akta Oleh Notaris", *Scientific Journal of Notary Law*, Vol. 11, No. 1, p. 29, <https://ejournal.undip.ac.id/index.php/notarius/article/view/29166/16816> accessed on 09 June 2024 at 20.00 WIB.

³Lana Imtiyaz, Budi Santoso & Adya Paramita Prabandari. (2020). "Reaktualisasi Undang-Undang Kenotariatan Mengenai Digitalisasi Risalah Akta oleh Notaris", *Jurnal Notarius*, Vol. 13, No. 1, p. 100, <https://ejournal.undip.ac.id/index.php/notarius/article/view/29166/16816> accessed on 09 December 2023 at 10.00 WIB.

⁴*Ibid.*

⁵Othman Ballan. (2022). "Tanggung Jawab Notaris Atas Kerusakan Minuta Akta yang Disimpan Notaris", *Jurnal Hukum Wacana Paramarta*, Vol. 21, No. 1, p. 58, <https://doi.org/10.32816/paramarta.v21i1.171> accessed on 02 June 2024 at 05.00 WIB.

⁶Luhur Pambudi, "Kantor Notaris Terbakar di Surabaya, Arsip Bernilai Ratusan Juta Rupiah Ikut Hancur," *TribunJatim.com*, <https://jatim.tribunnews.com/2023/03/12/kebakaran-kantor-notaris-di-surabaya-berkas-berkas-bernilai-ratusan-juta-rupiah-ikut-ludes> accessed on 02 June 2024 at 05.30 WIB.

⁷Othman Ballan, *Op.cit.*, p. 58-59.

right that the minutes of the deed are stored properly as written in the regulations on archiving that all documents must be stored in a safe, airtight and fireproof place.⁸ If someone is harmed by the actions of another person, while there is a legal relationship between them under an agreement, in this case the notary is not a party to the deed but has an obligation to keep the minutes of the deed in his capacity.⁹

The ITE Law has penetrated all areas of life, one of which is the notary profession by issuing the popular term cyber notary.¹⁰ The concept of cyber notary is a concept related to the implementation of notary authority based on information technology.¹¹ Electronic storage of minutes of deeds has the potential to cause problems with the security of their storage related to the principle of confidentiality which requires notaries to keep the contents of the deed and all information obtained in the course of carrying out their duties confidential.¹²

Innovation in storing minutes of deeds electronically is hampered by the absence of regulations regarding procedures for storing minutes of deeds electronically and sanctions for notaries who do not implement the electronic storage of minutes of deeds properly.¹³ Notaries are concerned about the legal consequences that will arise from storing minutes of deeds electronically, such as "the decline in the authenticity of notarial deeds to private deeds, the potential for leaks thereby violating the principle of confidentiality, the risk of being changed because there is no guarantee of system security, the possibility of rejection by other parties and the risk of lawsuits from notary clients."¹⁴

⁸*Ibid.*

⁹Winanto Wiryomartani. (2024). *"Protokol Notaris: Kewajiban atau Beban"*, Jakarta Webinar Practice Legal Center.

¹⁰Arif Lukman. (2021). "Implementasi Peraturan Menteri Agraria dan Tata Ruang (ATR) Undang-Undang Nomor Badan Pertanahan Nasional (BPN) Nomor 9 Tahun 2019 tentang Penyelenggaraan Pendaftaran Hak Tanggungan dengan Sistem Elektronik (Analisis Permasalahan dan Legalitas Akta Autentik Secara Elektronik)", *Sultan Agung Notary Law Review (SANLaR)*, Vol. 3, no. 1, p. 347, <https://jurnal.unissula.ac.id/index.php/SANLaR/article/download/13970/pdf> accessed on 10 October 2024 at 05.00 WIB.

¹¹Bernadete Nurawati, Rinaldi Agusta Fahlevie, KMS Herman, Maman Suparman & Anda Lusia. (2023). "Keabsahan Akta Notaris yang Menggunakan Cyber Notary dalam Pembuatan Akta Autentik Menurut Undang-Undang Kenotariatan", *Jurnal Action Research Literate*, Vol. 7, No. 9, p. 3, <https://arl.ridwaninstitute.co.id/index.php/arl/article/view/160> accessed on 25 May 2025 at 09.00 WIB.

¹²Litha Nabilla Mallolongan & Hendry Julian Noor. (2023). "Peluang Penerapan Penyimpanan Minuta Akta Secara Elektronik Menuju Era E-Notaris Berdasarkan Undang-Undang Nomor 2 Tahun 2014 tentang Jabatan Notaris", *Jurnal Hukum Notaris*, Vol. 2, No. 1, p. 58, <https://notarylaw.journal.ulm.ac.id/index.php/nolaj> accessed on 28 November 2024 at 05.00 WIB.

¹³*Ibid.*

¹⁴Humas FHUI, "Pelayanan Notaris Elektronik dalam Keadaan Darurat Kesehatan Masyarakat oleh Dr. Edmon Makarim, S.Kom., SH, LL.M", Fakultas Hukum Universitas Indonesia,

Viewed from the perspective of the governance of notary protocol archival documents stored traditionally, the author is concerned that if a force majeure situation occurs, it can result in the destruction of notary deed minutes stored traditionally because of the high risk level for notaries for their responsibility to stakeholders, namely clients and notary partners. According to the author's perspective, along with the rapid advancement of technology and information, law needs to be present for society as a social control tool in the era of society 5.0.

According to the author's perspective, notaries can utilize electronic systems for storing minutes of deeds in the digitalization era as an effort to minimize the risk of loss and damage to minutes of deeds. The purpose of the study was to determine and analyze the legal aspects (regulations) of storing minutes of notary deeds electronically and to determine and analyze how to overcome data leaks of minutes of notary deeds stored electronically.

2. Research Methods

The type of research that the author uses is a normative legal research type. Normative legal research is legal research that places law as a building of a norm system.¹⁵The author uses a statute approach to this legal research approach.as an initial basis for conducting analysis by examining all laws and regulations relating to the legal issues being studied.¹⁶This study uses primary data obtained from respondents, informants and sources.¹⁷Then secondary data comes from official documents, books, and even research results in the form of reports.¹⁸The data collection method uses library research and uses prescriptive data analysis methods by examining legal rules or regulations as a system structure related to a legal event.¹⁹

3. Results and Discussion

3.1. Legal Aspects (Regulations) of Electronic Storage of Notarial Deed Minutes

Electronic storage of notarial deed minutes has several legal aspects that need to be considered, because the notary is obliged to make a deed in the form of deed

<https://law.ui.ac.id/layanan-notaris-secara-elektronik-dalam-kedaruratan-kesehatan-masyarakat-oleh-dr-edmon-makarim-s-kom-sh-ll-m/> accessed on 09 September 2023 at 10.00 WIB.

¹⁵ Fajar Nur Dewata, Mukti & Yulianto Achmad. (2015). *Dualisme Penelitian Hukum Normatif & Empiris*, Yogyakarta: Pustaka Pelajar. p. 34.

¹⁶*Ibid.*, p. 186.

¹⁷ Muhaimin. (2020). *Metode Penelitian Hukum*, Mataram: UPT. Mataram University Press.p. 89.

¹⁸ Soekanto, Soerjono. (2007). *Pengantar Penelitian Hukum*, Jakarta: UI Press. p. 12.

¹⁹*Ibid.*36.

minutes and store it as part of the notarial protocol in its original form to maintain the authenticity of a deed so that if there is forgery or misuse of the grosse, the copy or extract can be immediately identified by matching it to the original.²⁰

Technological advances offer a more practical, efficient, cheap and secure way of storing notary protocols through storage media in the form of electronic documents.²¹ Electronic documents can minimize the use of paper (paperless) and the possibility of losing reporting documents, even further, minutes and copies of deeds can also be transferred to scanning files as supervision material for notaries in carrying out their activities.²²

The practice of storing all notary protocols to date still uses conventional media in the form of paper and is stored manually physically for a long period of time so that it is prone to loss and damage.²³ UUJN Amendments to Article 16 paragraph (1) letter b state that in carrying out his/her position, a notary is obliged to make a deed in the form of deed minutes and keep it as part of the notary protocol.²⁴

UUJN Amendments to Article 16 paragraph (1) letter g state that in carrying out his office, a notary is obliged to bind the deeds he makes within 1 (one) month into a book containing no more than 50 (fifty) Deeds, and if the number of Deeds cannot be contained in one book, the Deeds can be bound into more than one book, and record the number of Minutes of the Deed, month and year of preparation on the cover of each book.²⁵

Based on the provisions of Article 16 paragraph (1) letter g, it is explicitly stated that the storage of notarial protocols is carried out conventionally using paper

²⁰Cut Era Fitriyeni, Fitriyeni, Cut Era. (2012). "Tanggung Jawab Notaris Terhadap Penyimpanan Minuta Akta Sebagai Bagian Dari Protokol Notaris", *Jurnal Kanun Jurnal Ilmu Hukum*, Vol. 14, No. 3, p. 392, <https://jurnal.usk.ac.id/kanun/article/view/6221/5117> accessed on 08 December 2024 at 17.00 WIB.

²¹Ahmad Rifaldi & Habib Adjie, (2022). "Minuta Akta Notaris Dalam Bentuk Elektronik", *Jurnal Hukum Bisnis*, Vol. 6, No. 1, p. 721, <https://jurnal.narotama.ac.id/index.php/hukumbisnis/article/view/1769/1937> accessed on 08 December 2024 at 17.00 WIB.

²²*Ibid.*, p. 93.

²³Aang Gunaidi, Yani Nurhadryani & Pudji Mulyono, Gunaidi, Aang, Yani Nurhadryani & Pudji Mulyono, 2018, "Pengembangan Sistem Respository Arsip Digital Pada Dinas Kependudukan dan Pencatatan Sipil Dalam Mendukung Smart Governance", *Jurnal BACA Dokumentasi dan Informasi*, Vol. 39, No. 2, p. 102, https://www.researchgate.net/publication/329801814_Development_of_Digital_Archive_Repository_System_At_Population_and_Civil_Registration_Service_In_Supporting_Smart_Governance accessed on 10 November 2024 at 17.00 WIB.

²⁴State Secretariat of the Republic of Indonesia, 2014, Law Number 2 of 2014 concerning Amendments to Law Number 30 of 2004 concerning the Position of Notary, State Secretariat of the Republic of Indonesia, Jakarta, p. 8.

²⁵*Ibid.*

that is usually used by notaries, meaning that electronic storage of notarial deed minutes has not been accommodated in detail in the notary office law. There are no norms that regulate notaries so that they can store deed minutes electronically, even though it is very important for the progress of the notarial profession in order to face changing conditions from a conventional system to an electronic system.²⁶

Judging from the problem of the minutes of the deed, many are lost or damaged due to the notary's lack of caution or force majeure, of course, it is a special concern so that legal updates can be made because the storage of notarial minutes of deeds electronically until now there are still no regulations governing it, but currently notaries need to adapt to technology in order to work intelligently and as a form of protection in carrying out their obligations through the storage of minutes of deeds electronically, this is because the minutes of the deed are a notary protocol which is included in the state archive, so that legal updates are needed in the Notary Law to regulate the storage of notarial minutes of deeds electronically.²⁷

3.2. How to Handle Data Leaks of Notary Deed Minutes Stored Electronically

Notaries have an obligation to keep the contents of the deed confidential as stated in Article 16 paragraph (1) letter e of the Notary Law, where the contents of the deed include personal data of the parties and witnesses. Notaries have a role in protecting personal data by not disseminating this personal data to parties who are not connected to the deed.²⁸

UUJN emphasizes that minutes of deeds must be stored with a high level of security as a form of professional responsibility towards client trust and the legal system so that digital developments offer new alternatives such as electronic system-based storage, although Indonesian regulations still limit the use of electronic deeds, but digital systems can support archiving and make it easier for notaries to search and monitor documents without eliminating the main role of physical documents as legal evidence.²⁹

The current condition which relies heavily on digitalization and the application of technology in various aspects of life certainly creates a new opportunity where

²⁶Interview with Muhammad Hafidh as a notary in Semarang City, May 02, 2025.

²⁷*Ibid.*

²⁸Susanti, Sari. (2024). "Integrasi Konsep Pelindungan Data Pribadi Pengguna Jasa Notaris Berdasarkan Undang-Undang Pelindungan Data Pribadi dan Jabatan Notaris", *Jurnal Innovative: Journal Of Social Science Research*, Vol. 4, No. 6, p. 14, <https://swarajustisia.unespadang.ac.id/index.php/UJSI/article/view/482/357> accessed on 29 March 2025 at 09.00 WIB.

²⁹Selviany, (2022). "Cyber Notary Kepastian Hukum Penyimpanan Dokumen Notaris", *Diktum: Jurnal Ilmu Hukum*, Vol. 10, No. 2, <https://doi.org/10.24905/diktum.v8i2.105> accessed on 21 February 2025 at 16.00 WIB.

technology can help store notary protocols more practically, efficiently, cheaply and safely through electronic storage.³⁰ The notary profession is not free from the problem of mistakes or crimes committed which require accountability, including in the storage of notary protocols, so that if the minutes of the deed are lost or damaged, the notary concerned must be held accountable.³¹

The advancement of electronic storage media technology helps humans in storing conventional documents into electronic documents, but not all of the ease of access to electronic storage can solve the problem of document storage, because paid online electronic storage media tends to be easily hacked from internal and external sources, so its use is not recommended for notaries who want to switch from storing conventional deed minutes to electronic ones, this is due to the risk of data leakage of notarial deed minutes.³²

Prevention of data leaks of notarial deed minutes stored electronically can be done by scanning the deed minute files which are then stored on an external hard disk to accommodate deed minute documents throughout the notary's term of office.³³ Then, through the creation of a special notary deed minute storage server owned by notaries through notary professional organizations at each regional level with the aim of storing various notary deed minutes with a classification mechanism according to the name of the notary and the deeds that have been made from the beginning of his/her term of office until now he/she is carrying out his/her position and until the notary retires from his/her position.³⁴

In connection with the confidentiality of the minutes of the deed which are not immediately shown to the general public, access to view the minutes of the notarial deed stored electronically is only given to parties who have authority over the minutes of the deed, such as notaries and the notary supervisory board consisting of government elements, notary elements and expert or academic elements who can have access to open or close the minutes of the deed stored electronically for the purpose of reviewing the minutes of the deed.³⁵

³⁰M Javana Krida Surya, Nazilah Maghfiroh, Nerissa Pramesti and Adetya Firnanda, (2024). "Urgensi Penyimpanan Protokol Notaris secara Elektronik dalam Kaitan Cyber Notary di Indonesia", *UNES Law Review*, Vol. 6, No. 3, p. 8334–46, <https://review-unes.com/index.php/law/article/view/1719> accessed on 20 February 2025 at 18.30 WIB.

³¹Resa Eka Nur Fitriasisari, Fitriasisari, Resa Eka Nur. (2022). "Peran Jabatan Notaris Dalam Penyimpanan Protokol Notaris Yang Disimpan Dalam Bentuk Elektronik Arsip", *Jurnal Hukum dan Kenotariatan* Vol. 6, No. 2, p. 1069, <https://doi.org/10.33474/hukeno.v6i2.17797> accessed on 20 February 2025 at 19.00 WIB.

³²Interview with Muhammad Hafidh as a Notary in Semarang City, 02 May 2025.

³³*Ibid.*

³⁴*Ibid.*

³⁵Interview with Dahniarti Hasana as a notary in Semarang Regency, 22 May 2025.

4. Conclusion

The legal aspect of storing notarial deed minutes electronically is proven by the Notary Law which has not been able to keep up with technological developments that facilitate and provide security for notaries in carrying out their obligations, because there are no norms that regulate notaries so that they can store notarial deed minutes electronically. The way to overcome data leakage of notarial deed minutes stored electronically can be done by scanning the notarial deed minute file which is then stored on an external hard disk to accommodate the notarial deed minute document throughout the notary's term of office. Another way to overcome this is by creating a special notarial deed minute storage server owned by notaries through notarial professional organizations at each regional level with the aim of storing various notarial deed minutes with a classification mechanism according to the notary's name and the deeds he has made from the beginning of his term of office until now he is carrying out his position and until the notary retires from his position. In connection with the confidentiality of the minutes of the deed which are not immediately shown to the general public, access to view the minutes of the notarial deed stored electronically is only given to parties who have authority over the minutes of the deed, such as notaries and the notary supervisory board consisting of government elements, notary elements and expert or academic elements who can have access to open or close the minutes of the deed stored electronically for the purpose of reviewing the minutes of the deed.

For the government, to make legal updates to the Notary Law to regulate the electronic storage of notarial deed minutes, because until now there has been no regulation governing the storage of notarial deed minutes electronically. Notaries need to adapt to technology in order to work intelligently and as a form of protection in carrying out their obligations through electronic storage of deed minutes, this is because deed minutes are a notary protocol that is included in the state archive. For notaries, it is expected that the file scanning process is carried out independently and using the services of employees in the technology field to help complete the task of converting conventional documents to electronic documents as a form of anticipation of events beyond the control of the notary profession. For notary professional organizations, the creation of a special storage server owned by notaries needs to be done considering the level of urgency that is greatly needed by notaries in order to secure deed minutes with the cost of making it borne jointly by members of the notary professional organization at each regional level and appointing special staff in the technology field as competent employees to carry out special tasks to secure notarial deed minutes stored electronically.

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