



JURIDICAL IMPLICATIONS THE JOINT MEETING OF THE PURA DWIJAWARSA FOUNDATION IS BASED ON LEGAL CERTAINTY

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Abstract

The Foundation Law provides an understanding that a foundation is a legal entity engaged in religious, social, and humanitarian fields. This research discusses the juridical implications of the joint meeting held at Yayasan Pura Dwijawarsa with the aim of appointing the foundation's trustees, the regulation of the joint meeting is contained in article 7 number 6 of the Articles of Association contained in the Deed of Establishment of the Foundation Pura Dwijawarsa Number 29 dated April 25, 2008 made before notary Niluh Elita Mahariany SH, M.Kn, the article states that if for any reason the foundation does not have a trustee, then since the vacancy is obliged to appoint a trustee based on the decision of a joint meeting by the management and supervisory organs. But what happened in the Dwijawarsa Temple Foundation, the joint meeting aimed at appointing the coach was carried out by the management and supervisors who had ended their terms of office. This research is a socio-legal research using a sociological juridical approach. The results of the analysis show that there are several impacts arising from the existence of the joint meeting so that it is not in accordance with one of the objectives of the law, namely legal certainty.

Keywords : *Joint Meeting, Foundation, Organ Foundation.*

1. INTRODUCTION

Foundations are included as legal entities in Indonesia. The term "foundation" comes from the translation of the foreign term in Dutch "stitching" and the English term "foundation". The foundation is included in one of the legal entity institutions that have a social nature. The Law on Foundations provides an understanding if a foundation is a legal entity engaged in the religious, social and humanitarian fields and does not have members in carrying out its activities. Foundations are legal entities that have assets that are separated and used to achieve goals within the foundation. With the formation of a foundation legal entity, it is hoped that all needs for the desire to form religious, social and humanitarian institutions can be realized in an institution that has been recognized and accepted.

In setting up a foundation, it is obligatory to pay attention to the formal requirements that have been regulated in the law. Foundations can be established while the founders are still alive or based on a will. The conditions for establishing a foundation are:

- I. Material Requirements:
 1. There must be a separation of wealth
 2. A goal
 3. An organization
- II. Formal Requirements:
 1. With authentic deed
 2. In Indonesian
 3. Request approval from the Minister of Justice and Human Rights or an appointed official
 4. Announced in the State Gazette of the Republic of Indonesia.

As stated by the author above, if a foundation is a legal entity, the status of the legal entity is not just attached. The status of a legal entity is obtained by a foundation when the foundation has

carried out the process of approval from the government. In fact, not all foundations in the community are registered to become legal entities based on applicable regulations. Humanitarian social activities carried out by the foundation are thought to arise from the awareness of the people from among those who are able and to separate their wealth to help people who are experiencing difficulties both economically and in other matters. Their reason for choosing to establish a foundation is because when compared to other forms of legal entity which only focus on the economy and business. Prior to the existence of positive laws governing foundation legal entities, foundations flourished in Indonesia. There were several weaknesses in foundations before the issuance of the Foundation Law, namely: status as a legal entity was still considered weak, the shift in the function of foundations from social institutions to commercial institutions, various procedures for establishment and forms of foundations, there was no obligation to register and authorize the minister and announcement of deed establishment that has not been required, and various names of foundation organs and also no limit on the number of people in it. Thus, arrangements regarding foundation legal entities are deemed necessary in order to provide legal certainty and public order in providing a correct understanding regarding foundations to the public. So therefore, the government formed a positive law with the promulgation of Law Number 16 of 2001 concerning Foundations which was later amended by Law Number 28 of 2004 concerning Amendments to Law No.16 of 2001 concerning Foundations, hereinafter referred to as the Foundation Law. Even though there have been changes in the law, the two are still interrelated and form an inseparable unit.

The government through the Foundation Law provides an understanding of foundations, namely:

"Legal entity that stands with separate assets and is intended for the social, religious and humanitarian fields that has no members". One of the foundations based in Malang City is the Pura Dwijawarsa Foundation. The Dwijawarsa Pura Foundation is domiciled at Jalan Ki Ageng Gribig Gang 12, Rukun Tetangga 005, Rukun Warga 005, Hamlet Buring, Kelurahan Lesanpuro, Kedungkandang District, Malang City. On February 7, 1959 the Pura Dwijawarsa Foundation was established with notarial deed number 13 drawn up before R. Soeratman, a substitute notary for Malang. This foundation has aims and objectives in the religious field by establishing and maintaining temples (Hindu religious places of worship) first in Malang and around Malang, and subsequently in any places outside Bali where there are Hindus who need a place of worship. After the birth of the Foundation Act, The Pura Dwijawarsa Foundation made a new deed of establishment made before notary Niluh Elita Mahariany, SH, M.Kn, on April 25 2008 with the title Deed of Establishment of the Pura Dwijawarsa Foundation Number 29. Then, on July 1 2008, an amendment to the articles of association was made before the same notary, with the title Deed of Amendment Number 2. This change was made by replacing members of the foundation's supervisors and supervisors. The foundation has been approved by the government through the ratification of the Deed of Establishment and Amendment Deed by the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-3760. AH.01.02 of 2008. Thus, the Pura Dwijawarsa Foundation has obtained approval by obtaining status as a legal entity from the government. on April 25 2008 under the title Deed of Establishment of the Pura Dwijawarsa Foundation Number 29. Then, on July 1 2008, an amendment was made to the articles of association in front of the same notary, with the title Deed of Amendment Number 2.

This change was made by replacing members of the board of trustees and members foundation supervisor. The foundation has been approved by the government through the ratification of the Deed of Establishment and Amendment Deed by the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-3760. AH.01.02 of 2008. Thus, the Pura Dwijawarsa Foundation has obtained approval by obtaining status as a legal entity from the government. on April 25 2008 under the title Deed of Establishment of the Pura Dwijawarsa Foundation Number 29. Then, on July 1 2008, an amendment was made to the articles of association in front of the same notary, with the title Deed of Amendment Number 2. This change was made by replacing members of the board of trustees and members foundation supervisor. The foundation has been approved by the government through the ratification of the Deed of



Establishment and Amendment Deed by the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-3760. AH.01.02 of 2008. Thus, the Pura Dwijawarsa Foundation has obtained approval by obtaining status as a legal entity from the government. This change was made by replacing members of the foundation's supervisors and supervisors. The foundation has been approved by the government through the ratification of the Deed of Establishment and Amendment Deed by the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-3760. AH.01.02 of 2008. Thus, the Pura Dwijawarsa Foundation has obtained approval by obtaining status as a legal entity from the government. This change was made by replacing members of the foundation's supervisors and supervisors. The foundation has been approved by the government through the ratification of the Deed of Establishment and Amendment Deed by the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-3760. AH.01.02 of 2008. Thus, the Pura Dwijawarsa Foundation has obtained approval by obtaining status as a legal entity from the government.

Foundations are one of the legal subjects, but are not classified as natural human legal subjects, but are legal subjects classified as entities, namely legal entities. Therefore, the foundation as a legal entity cannot take care of itself and cannot carry out what the agency has to do. Thus, equipment is needed in the form of a natural human who is in charge of managing and acting on behalf of the agency. The law on foundations recognizes three types of organs, namely builders, administrators and supervisors. The authorities and obligations of the organs of the foundation depend on the purpose of the foundation, bearing in mind that if the foundation does not function without organs and foundations it is the reason for the existence of organs. The duties and responsibilities of the coach, administrator and supervisor as organs of the foundation originate from:

- A. The nature of the foundation that depends on organs, meaning that without organs, the foundation cannot run or function to carry out the aims and objectives of the foundation,
- B. The existence of organs is very decisive, because if there is no foundation, then there will be no organs.

With the development of time, there is a vacancy of people who occupy the organs of guidance. This is because the supervisors named IDA BAGUS MADE PUSPA and Doktorandus I KETUT TIRTE have passed away. The term of office of the supervisor in article 8 point 1 of the Articles of Association of the Dwijawarsa Foundation in 2008 is determined if they serve for 5 (five) years, it can be concluded that the supervisor has ended his term of office, because his term of office ended in 2013. After the death of the two supervisors and the expiration of the term of office, then the supervisor's chair is vacant. The coach is an important organ in the foundation, because he has authority which, based on the foundation's articles of association, is not left to the management and supervisors. Considering that the Trustee is the highest and most important organ in the foundation, then in 2020 the management and supervisors of the temple foundation will appoint a new supervisor to fill the vacant supervisor seat. This was done through the Joint Foundation Meeting mechanism which was held before notary AA Gde Wahyu Anggara, SH, M.Kn resulting in the Deed of Statement of Meeting Resolutions number 164 dated 29 September 2020 and Deed of Statement of Meeting Resolutions Number 53 dated 06 September 2021. Appointment of the supervisor due to vacancy the supervisor by management and supervisors can be carried out on the basis of the law contained in article 7 number 6 of the articles of association of temple foundations number 29 and article 28 paragraph (4) of the Foundation Law which reads:

"In the event that for any reason the foundation does not have a member of the Board of Trustees, then within 30 (thirty) days after the vacancy occurs, a member of the Board of Trustees must be appointed based on the decision of a joint meeting of supervisory members and board members." Another thing that needs to be known is that the appointment of the supervisor of the Dwijawarsa Pura Foundation is carried out by the management and supervisors whose term of office has ended, because the board and supervisor have a term of office that ends in 2013. The term of office itself has the meaning as the end of the term or opportunity owned by a person to hold a position or certain tasks. Since 2013 (two thousand and thirteen) – 2021 (two thousand

twenty one) there has never been a renewal of the organs and articles of association of the Pura Dwijawarsa Foundation. Thus, the Dwijawarsa Pura Foundation has new supervisor members in 2020, but appointments are made by management and supervisors whose term of office has ended and the appointment is made beyond the time period specified by the temple foundation's articles of association, i.e. 30 (thirty) days from the date of vacancy of the supervisor is appointed by the management and supervisor. Thus the appointment of foundation supervisors by administrators and supervisors whose term of office has ended has several juridical implications. Based on the explanation above, the research aims to analyze the juridical implications of the joint meeting of the Pura Dwijawarsa Foundation based on legal certainty.

2. IMPLEMENTATION METHOD

This study uses socio-legal research, namely that there are differences between Das Sollen and Das Sein that occur in society. The approach used is a type of sociological juridical approach through a statutory approach. Data collection techniques were carried out by interviews, literature studies, and documentation studies. Data analysis technique uses descriptive qualitative.

3. RESULTS AND DISCUSSION

The juridical implications of the joint meeting of the Pura Dwijawarsa Foundation are based on legal certainty.

The Pura Dwijawarsa Foundation is a legal entity in the form of a foundation, as a legal entity that is classified as an independent legal subject that is scientifically different from humans, so a foundation cannot take care of itself and cannot do what it should do on its own. Therefore, foundations need equipment with human form known as organs. The Law on Foundations and the Articles of Association of the Pura Dwijawarsa Foundation explain that a foundation has organs consisting of Trustees, Management and Supervisors. The following is an explanation of each of these organs:

Coach

The highest organ in the foundation is held by the supervisor. This can be seen from article 28 of the Law on Foundations, that the builder has authority that is not delegated to the administrators or supervisors of the foundation. As the highest organ, the supervisor has a central position and has veto rights. The main task of the supervisor is to have an active role in controlling the activities of the foundation to achieve its aims and objectives. Trustees of the foundation can consist of one or more people. If the supervisor consists of more than one person, then one of them acts as the chairman of the supervisor which is further regulated in the Articles of Association of the Foundation, to become a member of the supervisor, no election is carried out, but appointment. The appointment of supervisor members is based on the supervisor meeting. However, for newly established foundations, the appointment of supervisor members can be done by the founder of the foundation. People who can be appointed as members of the trustees are individuals as founders of the foundation and or those who, based on the decision of the meeting of the members of the trustees, are judged to have high dedication to achieving the goals and objectives of the foundation. It is clear that a person who can be appointed as a foundation supervisor does not have to be the founder of the foundation, but can also be someone from outside the foundation who has high dedication to the aims and objectives of the foundation.

Manager

The management is the executive organ in the foundation. The management is the organ that carries out the management of the foundation, both for internal and external affairs. In the real activities of the foundation, this board is a very heavy work organ. The management organizes documents for foundation activities, including bookkeeping activities, financial reporting, and fulfillment of tax obligations. All of these things are carried out by the board of the foundation so that the board plays a key role in the running of the foundation in achieving its aims and objectives. According to the law on foundations, the requirements to be appointed as administrators of a foundation are quite simple, namely individuals who are capable of carrying out legal actions.



According to Article 1330 of the Indonesian Civil Code, a person who is capable of carrying out legal actions is of an adult age and is mentally healthy. However, Due to the heavy duties of the foundation administrators and the legal risks borne, it is necessary to know that as administrators they must also have the ability to carry out legal actions and strive to be able in terms of bookkeeping, and not members of supervisors or supervisors. Foundation administrators are appointed by the supervisor based on the decision of the supervisor meeting for a period of five years and can be reappointed after the first term ends for the term of office specified in the foundation's articles of association. The composition of the management consists of at least a chairman, a deputy and a treasurer. and not a supervisor or supervisor member. Foundation administrators are appointed by the supervisor based on the decision of the supervisor meeting for a period of five years and can be reappointed after the first term ends for the term of office specified in the foundation's articles of association. The composition of the management consists of at least a chairman, a deputy and a treasurer. and not a supervisor or supervisor member. Foundation administrators are appointed by the supervisor based on the decision of the supervisor meeting for a period of five years and can be reappointed after the first term ends for the term of office specified in the foundation's articles of association. The composition of the management consists of at least a chairman, a deputy and a treasurer.

Supervisor

The supervisor is an organ of the foundation whose job is to supervise and provide advice to the management in carrying out the activities of the foundation. The position of supervisor in the foundation is a must. This can be seen from the requirements stipulated by the regulations that in a foundation there must be at least one person who is a supervisor. This suggests that there is an emphasis from the law so that after all there must be one person who acts to supervise the board in carrying out foundation activities so that no loss occurs to the foundation. Even so, if the foundation is a large foundation with a large number of management, of course the number of supervisors will be adjusted according to needs. People who can be appointed as supervisors are individuals who are able to carry out legal actions, Of course, when they are adults and capable of acting legally, anyone can be appointed as a supervisor. The law does not stipulate specific requirements for people who are appointed as supervisors, whether social background, education, experience or certain expertise. But of course in order to carry out their duties properly, there is a need for qualifications that must be possessed by a foundation supervisor, namely the foundation supervisor must be able to control and provide advice because he is in charge of supervising and giving advice to management, and is not a member of the board or supervisor of the foundation. This is so that there is no overlap in carrying out their duties and authorities so as not to harm the company.

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An organization or institution is contained in the rules of the game in the Articles of Association (AD) which regulate including the division of tasks and responsibilities of the management elements because the organs in a legal entity will not be subject to legal responsibility if the legal actions they carry out cause civil losses to other parties. The Articles of Association are the highest legal basis/highest constitution in a legal entity. In addition to the articles of association, there are also additional internal arrangements within the foundation called the Bylaws. Prior to the enactment of the Foundation Law, foundations existed only based on custom. This then has an impact on the various forms and procedures for establishing foundations. Experts and jurisprudence state that there are consequences in terms of the establishment of a foundation can be done with a notarial deed or private deed. In general, people use a notarial deed in establishing a foundation, but this is not stated in written regulations, therefore this is not an obligation in the case of establishing a foundation. The existing custom is that after the deed of establishment of the foundation has been signed by the management, it can then be registered at the district court clerk's office where the foundation can be known by the wider community (principle of publicity). Therefore, by law, foundations that were born before the law on foundations are declared by law as legal entities. the community uses a notarial deed in establishing a foundation, but this is not stated in a written regulation, therefore this is not an obligation in the case of establishing a foundation. The existing custom is that after the deed of establishment of the foundation has been signed by the management, it can then be registered at the district court clerk's office where the foundation can be known by the wider community (principle of publicity).

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The Transitional Provisions on the Law on Foundations Number 28 of 2004 recognizes that a foundation legal entity that has been registered with the District Court, and announced in the Supplement to the State Gazette of the Republic of Indonesia or that has an operational license from the relevant agency, is required to make adjustments to the Foundation Law. The Foundation Law Number 28 of 2004 was promulgated on October 6, 2004, so the authors can conclude that the articles of association contained in the Deed of Establishment of the “Pura Dwijawarsa” Foundation Number 29 dated April 25, 2008 made before Niluh Elita Mahariany, SH, M. Kn experienced delays in adjusting the articles of association and also in the premise deed of the Pura Foundation it was not stated if the foundation was a continuation of the same foundation formed based on the articles of association in 1959. Therefore, it can be concluded that the Pura Foundation actually has two foundational legal entities that different. The position of this premise is very important in an authentic deed because it is the part that contains the initial information of a deed. The responsibility of the deed premise is the responsibility of the appearer because the contents of the premise are the information provided by the appearer. Therefore, the establishment of two foundations with different deed of establishment results in legal consequences for the sustainability of the foundation, especially in the field of foundation assets. For foundations that are late in making adjustments to the articles of association, they can transfer their wealth to other foundations by means of the old foundation having to be dissolved first and liquidating its assets, then the remaining assets of the liquidation are handed over to other foundations. The process that can be carried out is to make minutes of the transfer of wealth assets and management governance from the old foundation to the new foundation using a mechanism in the form of grants. In creating the new foundation, it was suggested that the foundation use a different name from the previous foundation, but the Pura Dwijawarsa Foundation used the same name. It is possible that this happened because at that time there had not been much supervision of the foundation's database.

Law Number 16 of 2001 concerning Foundations regarding the requirements for a foundation's statutes, namely:

1. The deed of establishment contains the Articles of Association and other information deemed necessary;
2. The articles of association of the foundation contain at least:
 - a. Name and place of domicile;
 - b. Purpose and objectives as well as activities to achieve these aims and objectives;
 - c. Establishment period;
 - d. The initial amount of wealth separated from the founder's personal wealth in the form of money or goods;
 - e. Methods of acquiring and budgeting wealth;
 - f. Procedures for appointing, dismissing and replacing members of the Trustees, management and Supervisors;
 - g. The rights and obligations of members of the Trustees, Managers and Supervisors;
 - h. Procedures for holding foundation organ meetings;
 - i. Provisions regarding amendments to the articles of association;
 - j. Merger and dissolution of foundations;
 - k. Use of the remaining assets from the liquidation or distribution of the Foundation's assets after dissolution.

The following are the deeds contained in the Pura Dwijawarsa Foundation:

1. The Articles of Association of the Dwijawarsa Pura Foundation Number 13 dated 7 February 1959 made before Raden Soeratman
2. The Articles of Association contained in the Deed of Establishment of the Pura Dwijawarsa Foundation Number 29 dated 25 April 2008 made before notary Niluh Elita Mahariany, SH, M.Kn
3. Deed of Amendment Number 2 dated July 1 2008 made before notary Niluh Elita Mahariany, SH, M.Kn

4. Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-3760.AH.01.02.Tahun 2008, which provides ratification of the Deed of Establishment and Deed of Amendment
5. Deed of Statement of Meeting Resolutions Number 164 dated 29 September 2020 made before AA Gde Wahyu Anggara, SH, M.Kn
6. Deed of Statement of Meeting Resolutions Number 53 dated 6 September 2021 made before AA Gde Wahyu Anggara, SH, M.Kn
7. Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-AH.01.06-0027577, regarding Acceptance of Changes to the Pura Dwijawarsa Foundation's Data based on the Deed of Statement of Meeting Resolutions Number 53 dated 6 September 2021 made before AA Gde Wahyu Anggara, SH, M. Kn

The Pura Dwijawarsa Foundation is a foundation engaged in the religious sector which was established with a statutes that have adjusted to the Foundation Law. The Articles of Association of the Dwijawarsa Pura Foundation provide arrangements if each organ in the foundation has a term of office of 5 years. The problem raised in this paper is that there is a vacancy of supervisors because their term of office has ended and also passed away so that the management and supervisory organs that are still there but no longer have authority because their term of office has ended then appoint a new supervisor through a Joint Meeting. According to Habib Adjie, the Foundation Law does not provide a way out if one of the elements in holding a Joint Meeting is not fulfilled, The way out that can be done is to submit an Application for Determination to the District Court, so that he is permitted to appoint a new Trustee and appear before a notary. In accordance with these provisions, the Pura Foundation has actually submitted an application for a determination to the Malang City District Court, the application was filed on March 6, 2020, with the determination number 383/Pdt.P/2020/PN.Mlg, but the determination contains if the application does not acceptable The reason for not accepting the application was due to an absolute error of competence, whereby the application for authorization of the authority of a legal entity organ with its attorney according to the court was not submitted to the District Court. The judge's consideration in this determination is due to:

According to the author, the juridical implications that may arise from the appointment of supervisors by board members and supervisory members whose term of office has ended include: First, Appointments made illegal / do not have legality in the eyes of the law. The translation of legal validity into English is Legal Validity. Based on translations from legal dictionaries and Oxford dictionaries, legal validity has almost the same meaning as legal certainty. It can be said that legal validity is very close to the positivist theory adopted in Indonesia. The validity of the law focuses on public trust in real sources, which can be seen and proven by the naked eye. Therefore, it can be concluded that validity is something that is certain, that already exists and applies. Indonesia is a legal state that can be found in the laws that exist in the world of Indonesian law. Another thing that reflects if Indonesia is a rule of law is that almost all aspects of people's lives use law as a tool to protect human interests. With the birth of law as a regulator of life in society, it provides benefits for the government in regulating and controlling society, so that social life becomes more orderly. There are three things that must be contained in the law, one of which is legal certainty. Aristotle in his book Rhetorica explains that the purpose of law is to desire justice solely and the content (content) of law is determined by ethical awareness of what is said to be fair and what is said to be unfair. According to this theory, law has a sacred and noble duty, namely justice by giving each person, what is entitled to receive and require separate rules for each case. So for this to happen, the law is required to make what is known as *algamene regels* (general rules/provisions) where these general rules/provisions are needed by the community for legal certainty.

Viewed from a normative perspective, legal certainty can be interpreted as statutory regulations that are made and promulgated with certainty. With legal certainty, it can be arranged clearly and logically so that it will not cause doubts if there are multiple interpretations. That way it will minimize clashes and conflicts in the norms that exist in society. Norm conflicts arising from



uncertainty in laws and regulations can take the form of contesting norms, reducing norms, or distorting norms. Legal certainty is aimed at the outward attitude of humans, it does not question whether a person's inner attitude is good or bad, what is considered is how his outward actions are. Legal certainty does not give sanctions to someone who has a bad mental attitude. however, what is sanctioned is the embodiment of the bad mental attitude, or making it a real or concrete action. According to Satjipto Rahardjo, there are two characteristics contained in legal certainty, namely coercion in the form of sanctions from authorities who have the duty and authority to maintain and foster order in society using intermediary tools in the nature of laws that apply in general.

There are several legal experts who provide their views regarding legal certainty. In discussing this thesis, the author uses the view of legal certainty based on Muhammad Ali Safaat and Abdul Rachmad Budiono. Muhammand Ali Safaat stated that legal certainty cannot be separated from positive law or statutory regulations. According to Abdul Rachmad Budiono, indicators of legal certainty can be achieved if there are clear statutory regulations and these laws are also properly implemented by legal officers. The Joint Meeting of the Pura Dwijawarsa Foundation which was made in the Deed of Statement of Meeting Resolutions Number 164 dated 29 September 2020 which was made before AA Gde Wahyu Anggara, SH, M.Kn was said to be legally invalid because there was no obligation to report changes related to Foundation Data to the minister. The author is of the opinion that the appointment of a supervisor with management and supervisors whose term of office has ended has been stated in a notarial deed in the form of a Deed of Statement of new Meeting Resolutions and the report has been received by the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-AH.01.06-0027577 , regarding the Acceptance of Data Changes to the Dwijawarsa Dwijawarsa Pura Foundation based on the Deed of Statement of Meeting Resolutions Number 53 dated 6 September 2021 made before AA Gde Wahyu Anggara, SH, M.Kn, Normally, this does not provide legal certainty for foundations, but with the receipt of reports on data changes by the minister, it can be used as a justification, so that foundations can function as they should with a new organ structure. Reporting on changes to the foundation's data has a function to fulfill the principle of publicity to the public, changes to data reported to the minister can be in the form of changes to the supervisor, administrators, supervisors, and the full address of the foundation. Another thing, according to the author, has not provided legal certainty for the appointment of the new supervisor because the Pura Dwijawarsa Foundation does not yet have a new amendment to the articles of association to regulate the organs of the foundation and the term of office. Considering the foundation as part of a legal entity,

Second,The coach who has been appointed is deemed not to have the authority as a supervisor in the foundation as stipulated in the articles of association. The reason for this thought is that the appointment made in the Dwijawarsa Pura Foundation is not based on the authority that has been regulated in the articles of association, so that the new supervisor is considered to have no rights and obligations to carry out these duties and authorities. **Third,** legal actions with the intention of carrying out the duties and authorities as a supervisor are considered invalid and have no legal force for foundations or other parties. The reason for this thought is because it started with an appointment that was carried out illegally, legal actions carried out under the pretext of carrying out the duties and authorities as a foundation supervisor can be considered illegal and have no legal force.

Fourth,The Pura Dwijawarsa Foundation appoints new supervisors by an organ that no longer has authority, so if a loss occurs to the foundation or a third party for the appointment, they can ask for personal responsibility or joint responsibility for that party. By making appointments by organs that no longer have authority in accordance with their articles of association, then if a loss occurs the parties can be held personally or jointly responsible. If the appointment made by means of a notarial deed has been reported to the minister, the responsibility remains with the foundation, but if reporting is not carried out, it becomes personal responsibility or joint responsibility. Basically, the appointment of the supervisor is still within the realm of authority of the board and supervisor, but because the actual term of office has ended and there is no extension of the term of office, the appointment does not have strong legal force. The appointment of a supervisor to fill the vacancy of the supervisor really needs to be done in the Dwijawarsa Pura Foundation because

remembering that the supervisor has the highest authority and so that the activities of the foundation can run as they should to achieve its aims and objectives. The author is of the opinion that the appointment of supervisors by administrators and supervisors whose term of office has ended is carried out by the Dwijawarsa Pura Foundation, which can lead to several juridical implications. In this writing, Juridical implications arise because of legal actions that were committed that were not in accordance with the legal norms in the Articles of Association of the Pura Dwijawarsa Foundation and the Law on Foundations. The appointment of the supervisor by the Pura Dwijawarsa Foundation has not made changes to its articles of association which contain new arrangements regarding the term of office and the names of those serving as new organs in the foundation (Article 43 of the Closing Regulations), so that it has not provided full legal certainty. Therefore, considering that foundations are domiciled as legal entities, the organs of the foundation as intermediaries in carrying out any legal actions within the foundation are expected to always pay attention to the legal aspects of the foundation so that they are always on track in accordance with applicable legal rules.

4. CONCLUSION

The juridical implications of the appointment include:

- a. By norm, appointments made are illegal/ do not have legality in the eyes of the law. But with justifications in the form of the issuance of the Decree of the Minister of Law and Human Rights of the Republic of Indonesia Number: AHU-AH.01.06-0027577, regarding Acceptance of Changes to Pura Foundation Data based on the Deed of Statement of Meeting Decision Number 53 dated 6 September 2021 made before AA Gde Wahyu Anggara, SH, M.Kn, this appointment can be made so that the foundation continues to carry out its aims and objectives.
- b. The trustee who has been appointed is considered to have no rights and obligations in carrying out his duties and authority as a supervisor in the foundation as stipulated in the articles of association.
- c. Legal actions with the intention of carrying out the duties and authorities as a supervisor are considered invalid and have no legal force for foundations or other parties
- d. The appointment is carried out by an organ that no longer has authority, so if there is a loss for the foundation or a third party for the appointment, they can ask for personal responsibility or joint responsibility for that party.

Based on the explanation above, the appointment of the supervisory organs carried out in the Dwijawarsa Pura Foundation does not have legal certainty. In fact, if there is a vacancy of a supervisor, according to the articles of association of the Dwijawarsa Pura Foundation and the foundation law, it is stated that members of the board and supervisors can be appointed through a Joint Meeting, but this does not happen at the Pura Dwijawarsa Foundation and after an application for the approval of the management and supervisors of the Pura Foundation has been made. Dwijawarsa with the result of a determination if the application is not accepted by the court also provides an understanding if the management and supervisors of the Dwijawarsa Pura Foundation still do not have the authority to make appointments.

SUGGESTION:

The Pura Dwijawarsa Foundation always pays attention to the term of office in its articles of association. When the term of office of each organ of the foundation has ended, another solution that can be taken is to request a stipulation in court before making an appointment if the management and supervisory organs are authorized to appoint a new supervisor, and also before carrying out the procedure for submitting a stipulation in the court also needs to pay attention to the provisions related to procedures/procedures and the completeness of the documents that have been arranged. After carrying out all the appointments of the organs of the Dwijawarsa Pura Foundation, they can make changes to the new articles of association through a supervisory meeting, wherein it is given arrangements regarding a new term of office and in the closing provisions in article 43 of



the Articles of Association of the Pura Dwijawarsa Foundation. If you have appointed a supervisor, it is expected to appoint more than 1 supervisor and does not need to be given a period of time in office.

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