

JURIDICAL REVIEW OF THE MERAH PUTIH COOPERATIVE AND THE ROLE OF THE NOTARY MAKING THE COOPERATIVE DEED (NPAK) IN ITS ESTABLISHMENT BASED ON INDONESIAN COOPERATIVE LAW

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Abstract

As a manifestation of the implementation of Article 33 paragraphs (1) and (4) of the 1945 Constitution of the Republic of Indonesia, the government initiated a community economic empowerment program in early 2025 through the establishment of the "Koperasi Merah Putih" (Red and White Cooperatives). In its initial phase, the government aims to establish up to 80,000 such cooperatives across villages and urban neighborhoods throughout Indonesia. Within this program, the Notary Making Cooperative Deeds (NPAK) plays a crucial role in ensuring the legal validity of these cooperatives' establishments. This study aims to examine the mechanisms involved in the formation of the Koperasi Merah Putih and to analyze the role of NPAK in this process. However, challenges arise for notaries, particularly NPAK, due to certain regulatory differences between the establishment of Koperasi Merah Putih and conventional cooperatives. Employing a normative juridical research method through literature study, this research utilizes an analytical approach to scrutinize the Koperasi Merah Putih and the role of NPAK from theoretical, regulatory, and practical perspectives. The findings reveal that the Articles of the Association of Koperasi Merah Putih differ from those of typical cooperatives in terms of naming conventions, types of business activities, management structures, membership areas, and procedures for obtaining legal entity status.

Keywords: *Cooperative; NPAK; Red and White*

1. INTRODUCTION

Cooperative is a legal entity. As a legal entity, Cooperatives have an important role in supporting the community's economy. Cooperatives are a forum where personal interests and group interests are combined in such a way. So that through group activities, the personal interests of the members become a driving force that provides benefits to all members of the group. Cooperatives as business entities created based on the mandate of the 1945 Constitution, Article 33, paragraphs 1 and 4 must continue to be maintained and empowered so that cooperatives can grow and develop so that they can provide welfare for members in particular and society in general.⁶. As one of the forms of implementing the mandate of Article 33 paragraph 1 and 4 of the 1945 Constitution, the government in early 2025 has launched a strategic program in the form of empowering the economy of Village and Sub-district communities, the program is known as the

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⁶ Tutwuri Handayani, Yulistya Adi Nugraha, Exclusive Guide to Establishment and Amendment of Cooperative Articles of Association and Technicalities in the Online AHU System for Notaries Making Cooperative Deeds (NPAK), 2024, p. 5

Red and White Cooperative. The government really hopes that this program can be implemented well immediately in early 2025. Based on the President's instructions, the Red and White Cooperative is a cooperative established with the aim of strengthening food self-sufficiency, economic equality, and realizing independent villages and sub-districts towards Indonesia Emas 2045⁷. The establishment of the Red and White Cooperative is designed to be a center for economic and social activities for every village and sub-district resident throughout Indonesia, so that the Red and White Cooperative is expected to be a mainstay of the economy and supporter of community welfare in each village and sub-district.⁸.

In the initial stages of implementation, the government is targeting to establish up to 80,000 Red and White Cooperatives in all villages and sub-districts in Indonesia.⁹. The government realizes that this number does not yet fully cover all villages and sub-districts in Indonesia, but in the initial stage this number is quite large and is expected to be evenly distributed throughout Indonesia and this number is expected to be achieved and implemented well so that this program will later be continued for the next stage until all villages and sub-districts in Indonesia can each have a red and white cooperative in their area.¹⁰.

The government's target regarding the number of red and white cooperatives formed certainly involves a very large role from the Notary profession as the party authorized to make the deed of establishment of the red and white cooperative, so the government asks for assistance from the Regional Management of the Indonesian Notary Association in each region to ask for the willingness of the Notaries who Make Cooperative Deeds (NPAK) to be able to help make this government program a success in accordance with their authority, namely providing counseling to the community regarding this matter and also making deeds of establishment or amendments or other deeds related to the formation of the red and white cooperative.

Based on Ministerial Decree Number 98 of 2004 concerning Notaries Making Cooperative Deeds, that the Deed of Establishment of a Cooperative must be made by a Notary. and the authorized Notary is only the Notary Making Cooperative Deeds (NPAK). This means that not all Notaries can make deeds related to Cooperatives, but Notaries who have been certified as Notaries Making Cooperative Deeds (NPAK)¹¹.

The Notary Public who makes Cooperative Deeds or abbreviated as (NPAK) is a public official who is appointed in accordance with the Notary Position Regulations and is given the authority to prepare the deed of establishment, deed of amendment to the articles of association, and other documents related to cooperative activities.

For the Notary who makes the Cooperative Deed, of course, they are willing to make the program a success according to their capacity, but there are challenges for the Notary, especially the NPAK, in implementing it, this is because there are several differences in terms of legal aspects regarding the establishment or changes to the Red and White Cooperative with cooperatives in general, where the government has set several new provisions that apply to the Red and White Cooperative which are not found in cooperatives in general. so that for the Notary it is necessary to conduct a study on the technique of preparing the articles of association of the Red and White Cooperative, because the role of the Notary who makes the Cooperative Deed is not only limited to making the deed, but also the Notary who makes the Cooperative Deed must be able to ensure that the Red and White Cooperative to be established is in line with the provisions of the Cooperative Law in Indonesia.

Based on the background description, the study "Legal Study of the Red and White Cooperative and the Role of the Notary Making the Cooperative Deed (NPAK) in its Formation Based on Cooperative Law in Indonesia" is important to be conducted, in order to understand the role and responsibilities of the Notary Making the Cooperative Deed in the formation of the Red and White Cooperative in the context of cooperative law in Indonesia, as well as providing solutions to the obstacles that may be faced by the Notary Making the Cooperative Deed in practice.

Research on Cooperatives has been conducted quite a lot by previous researchers, but regarding the Red and White Cooperative until now there has been no related journal related to this matter, but it is necessary for researchers to

⁷ Presidential Instruction Number 9 of 2025 concerning the Acceleration of the Establishment of Red and White Village/Sub-district Cooperatives.

⁸Tempo 2<https://www.tempo.co/politik/begini-konsep-koperasi-merah-putih-yang-digagas-prabowo-1229286>

⁹Implementation Instructions of the Minister of Cooperatives Number 1 of 2025 concerning the Establishment of Red and White Village/Sub-district Cooperatives.

¹⁰<https://finance.detik.com/berita-ekonomi-bisnis/d-7876282/kopdes-merah-putih-diharapkan-berjalan-dengan-koperasi-petani>

¹¹ M. Sumedi, SH, MH The Authority of Notaries as Cooperative Deed Makers, Surabaya: Faculty of Law, Airlangga University., 2009, p. 12

continue to make comparisons with previous research that is relevant to the topic of this research and also discuss the role of the Notary Making the Cooperative Deed (NPAK), such as research conducted by:

- a. I Gusti Ngurah Wira Prabawa, Dewa Gde Rudy, with a study entitled "The Role of Notaries in the Establishment of Cooperatives After the Implementation of Online Single Submission", in the journal examines the role of Notaries in the establishment of cooperatives after the Online Single Submission system is implemented.¹², while in this study, it not only examines the role of Notaries in the establishment of the Red and White Cooperative but also compares the establishment mechanism between the establishment of cooperatives in general and the establishment of the Red and White Cooperative.
- b. I Gede Angga Permana, Muhaimin, Lalu Wira Pria Suhartana with a study entitled "The Role of Notaries in the Establishment of Cooperatives as Legal Entities", in the journal examines the Form of Legal Responsibility of Notaries in the Establishment of Cooperatives as Legal Entities and also the role of government and the competence of the parties in the establishment of cooperatives, the results of the study explain that the role and responsibility of Notaries in the establishment of cooperatives is to make a deed of establishment of the cooperative in the form of an authentic deed as a form of certain legal acts having been carried out and Notaries are responsible both civilly and criminally for the deed they have made.¹³. While in this study will explain the mechanism of the establishment of the red and white cooperative and compare it with the process of establishing cooperatives in general, also discuss what are the roles of the Notary Making the Cooperative Deed (NPAK) in the framework of the establishment of the red and white cooperative.
- c. Muhammad Yusrizal, "The Role of Notaries as Public Officials in the Establishment and Change of Cooperative Legal Entities", in the journal examines the authority of Notaries as public officials who are given the mandate and authority by law to make cooperative deeds including the role of Notaries in the establishment and change of cooperative deeds, the same as other studies in it only explains how the mechanism for the establishment and change of cooperative articles of association is carried out by Notaries starting from the making of authentic deeds regarding cooperatives to the ratification of the cooperative as a legal entity.¹⁴. While in this study the cooperative discussed is slightly different from cooperatives in general, because the red and white cooperative has special regulations so that the mechanism for establishing and changing it is different from cooperatives in general, although it is still the authority of the Notary for Making Cooperative Deeds (NPAK), so this study discusses the mechanism for establishing and changing the red and white cooperative which is different from the discussion of cooperatives that have been discussed previously by the journal.
- d. Diana, "The Role of Notaries in Making Deeds of Amendments to the Articles of Association of Cooperatives and Their Approval at the Ministry of Law and Human Rights", in the journal examines the roles and functions of Notaries in making deeds of establishment and amendments to the articles of association of cooperatives, discusses the duties of Notaries Making Cooperative Deeds (NPAK) and the requirements to be appointed as Notaries Making Cooperative Deeds (NPAK) and also the steps that must be taken by Notaries after making a deed of establishment or deed of amendment to the cooperative, namely by registering it with the relevant Ministry through the General Legal Administration (AHU) system until the Cooperative is issued its Decree and legally becomes a legal entity. While in this study the study discussed focuses on the role of Notaries Making Cooperative Deeds (NPAK) in the formation of the red and white cooperative, both its establishment and amendments and the mechanisms in implementing it"¹⁵.

From several relevant research results above, there are similarities, namely that they all discuss cooperatives in general, but there has not been a single study that discusses the red and white cooperative, this is because the red and white cooperative is a recent issue, so it is necessary to conduct research on the red and white cooperative so that in

¹²I Gusti Ngurah Wira Prabawa, Dewa Gde Rudy, with a study entitled "The Role of Notaries in the Establishment of Cooperatives After the Implementation of Online Single Submission", *Deed of Commitas, Journal of Notary Law*, Vol 5 No 2 August 2020, pp 412-416.

¹³I Gede Angga Permana, Muhaimin, Lalu Wira Pria Suhartana with a study entitled "The Role of Notaries in the Establishment of Cooperatives as Legal Entities", *Journal of Education and Development, South Tapanuli Education Institute*, Vol.9 No.3, August 2021 Edition, pp. 588-589.

¹⁴Muhammad Yusrizal, "The Role of Notaries as Public Officials in the Establishment and Change of Cooperative Legal Entities", *Sanksi2024 (National Seminar on Law, Social and Economics)*, Vol 3, Number 1, 2024, E-ISSN: 2828-3910, pp. 352-358

¹⁵Diana, "The Role of Notaries in Making Deeds of Amendments to the Articles of Association of Cooperatives and Their Ratification at the Ministry of Law and Human Rights" *NOTARY JOURNAL Postgraduate Notary Study Program UMSU*, Vol. 2, No. 2, July-December 2023, pp. 301-307.

the future it can become a view and reference for anyone who needs references related to cooperatives in general and the red and white cooperative in particular.

2. RESEARCH METHODS

This study uses a Normative Juridical research method, namely research that conducts a literature study or uses literature materials. This research is descriptive in nature which will describe the red and white cooperative and also the role of Notaries in it by using a statutory approach, namely by examining the laws and regulations related to cooperatives in Indonesia with the problems in this study, and also by using an analytical approach that examines or analyzes the red and white cooperative and the role of the Notary Making the Cooperative Deed in terms of theory and regulations as well as its practice.

3. RESULTS AND DISCUSSION

3.1. Comparison between the formation mechanism of the Red and White Cooperative and Cooperatives in General.

Accelerating village and sub-district economic development requires an integrated strategy that includes strengthening infrastructure, increasing human resource capacity and access to business financing capital.¹⁶ In order to accelerate the economic development of rural and sub-district communities, the government has launched a program to empower the village and sub-district economy through the establishment of a Cooperative known as the Red and White Village/Sub-district Cooperative (hereinafter known as the Red and White Cooperative). Cooperatives as legal entities are considered appropriate for rural communities that predominantly work in the agricultural sector with the typical characteristics of mutual cooperation.¹⁷ The existence of the Red and White Cooperative as an effort to strengthen food independence, balance in economic development and implement independent villages, towards Indonesia Emas 2045¹⁸. Red and White Cooperative focuses on developing the superior potential of Villages or Sub-districts in order to realize equitable and inclusive economic growth. In the future, Villages and Sub-districts will not only be objects of development, but will play an active role as actors in encouraging national economic growth. Red and White Cooperative is classified as a Village Cooperative according to the cooperative classification based on the approach according to the field of business and/or place of residence of its members.¹⁹

The President of the Republic of Indonesia, General TNI (ret.) Prabowo Subianto, issued Presidential Instruction Number 9 of 2025 concerning the Acceleration of the Establishment of Red and White Village/Sub-district Cooperatives (hereinafter referred to as Inpres), urging that the establishment of Red and White Cooperatives be implemented immediately with a target of establishing 80,000 Cooperatives. The Government has prepared a daily task force to facilitate the establishment of Red and White Cooperatives.²⁰ The provisions of the Presidential Instruction provide direction to the Minister of Law to facilitate the ease of ratification of the establishment and changes to the articles of association of the Cooperative. Therefore, the role of the Notary, especially the Notary who makes the Cooperative Deed (NPAK), is considered important in making the legality of the establishment of the Merah Putih Village/Sub-district Cooperative.

¹⁶Permana, I Gede Angga, Muhaimin and Lalu Wira Pria Suhartana. The Role of Notaries in the Establishment of Cooperatives as Legal Entities, *Journal of Education and Development*, Vol.9 No.3. 2021, page 5.

¹⁷Titiek Kurniawati, Benidzar M Andrie, Anisa Puspitasari, The Role of Village Unit Cooperatives (KUD) in Improving Economic Levels, page 408, *Proceedings of the VI National Seminar on Agribusiness Research Results*, Volume 6, Number 1, 2022, page 5 <https://jurnal.unigal.ac.id/prosiding/article/view/7773/4903>

The Community in Kalijaya Village, Banjarnyany District, Ciamis Regency

¹⁸Tempo, <https://www.tempo.co/politik/begini-komp-koperasi-merah-putih-yang-digagas-prabowo-1229286>

¹⁹Windi Arista, Warmiyana Zairi Absi, Rusniati, Hendri S., *Cooperative Law*, Solok: Yayasan Pendidikan Cendekia Muslim Press, December 2021, p. 75

²⁰Kumparan, <https://kumparan.com/kumparanbisnis/pemerintah-bentuk-satgas-harian-percepat-pembentukan-koperasi-desa-merah-putih-24qkhm3BCPr/1>.

The Notary Public who makes Cooperative Deeds (NPAK) has special authority to make deeds of establishment, amendments, and dissolution as well as other deeds related to cooperatives. The specialty of the Notary Public who makes cooperative deeds is because they have been given education and training and appointed by the Ministry of Cooperatives. There are differences in the rules between cooperatives in general and the Red and White Cooperative type. Referring to the Circular of the Minister of Cooperatives Number 1 of 2025, Concerning the Procedures for Establishing the Red and White Village Cooperative (hereinafter referred to as Sema), the Red and White Cooperative Establishment Meeting is carried out in the form of a Special Village Deliberation or Special Sub-district Deliberation. The Village or Sub-district Deliberation held has a special agenda only for the establishment of the Red and White Cooperative. The Village or Sub-district Deliberation will discuss and agree on matters relating to the draft articles of association of the Red and White Cooperative which include the name, type of business, field of business, capital, initial membership, election of candidates for cooperative management and supervisors and work plans. The preparation of the articles of association plays an important role in determining the formal basis for the commitment of Cooperative members to work together²¹.

The results of the Village Deliberation or Sub-district Deliberation will later become a reference for the preparation of the Cooperative's deed of establishment. The author is of the view that before the Village Deliberation or Sub-district Deliberation is held, it is best to consult with the NPAK first, to submit an application for ordering the Cooperative's name in an electronic system known as the Cooperative Legal Entity Administration System (SABH Koperasi). The application for approval of the Cooperative's name is submitted to the Minister of Law through the Director General of General Legal Administration by accessing the SABH Koperasi, either by the founder of the Cooperative or by a Notary to submit the cooperative's name. The purpose of ordering the cooperative's name is to ensure whether the desired cooperative name is approved or rejected by the AHU Koperasi²².

Village Deliberation or Sub-district Deliberation resembles a form like a Cooperative establishment meeting, attended by the founders of the cooperative. The founders are people or several cooperatives who meet the membership requirements and declare themselves to be members and attend the cooperative establishment meeting.²³ Therefore, at the time of the Village Deliberation or Sub-district Deliberation, the founders are required to fill out the attendance list for the founding meeting and attach a photocopy of their population identity.²⁴ Although Law Number 6 of 2023 concerning the Stipulation of Government Regulation in Lieu of Law Number 2 of 2022 concerning Job Creation into Law, in Article 6 paragraph 1 it is stipulated that the establishment of a primary cooperative can be carried out by 9 people, but specifically for the establishment of the Red and White Cooperative, the establishment involves all or as many people as possible from the local Village or Sub-district. Sema further provides direction in the case of a Village or Sub-district with a population of less than 500 people, the Red and White Cooperative can be formed collaboratively from several Villages or Sub-districts²⁵.

Village Deliberation or Sub-district Deliberation is led by a meeting leader consisting of 3 people, who are appointed and selected from the participants of the cooperative establishment meeting.²⁶ During the implementation of the Red and White Cooperative formation meeting, coaching and counseling on cooperatives can be carried out by the Cooperatives Service in the Regency/City according to its membership area.²⁷ Guidance and counseling which are not mandatory requirements in the establishment of a Cooperative for the ratification of the Cooperative Legal Entity²⁸.

²¹Windi Arista, Warmiyana Zairi Absi, Rusniati, Hendri S., Cooperative Law, Solok: Yayasan Pendidikan Cendekia Muslim Press, December 2021, p. 68

²²Tutwuri Handayani and Yulistya Adi Nugraha. Exclusive Guide to Establishment and Amendment of Cooperative Articles of Association and Technical and Online AHU System for Notaries Making Cooperative Deeds. Jakarta, Tutwuri Handayani, 2024, page 57

²³*Ibid*, page 56

²⁴Implementation Instructions of the Minister of Cooperatives Number 1 of 2025 Concerning the Establishment of Village/Sub-district CooperativesMerah Putih

²⁵Circular Letter of the Minister of Cooperatives Number 1 of 2025, Concerning the Procedures for Establishing the Red and White Village Cooperative

²⁶Implementation Instructions of the Minister of Cooperatives Number 1 of 2025 Concerning the Establishment of Village/Sub-district CooperativesMerah Putih

²⁷Article 12 Paragraph 1 of the Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 9 of 2018 concerning Cooperative Organizers Cooperative Guidance and Development

²⁸Joniono Rahardjo, FX (2024). Cooperatives (Non-Sharia) in the Perspective of Indonesian Law, Jakarta: Gramedia Pustaka Utama, p. 25

However, counseling regarding Cooperatives in relation to institutional, business and financial aspects in village communities is still weak, so counseling and coaching are important, through Field Cooperative Extension Officers (PPKL).²⁹ The formation meeting of the Red and White Cooperative through the Village Deliberation or Sub-district Deliberation discussed the main points of the articles of association. The articles of association are all the rules that regulate the life of the cooperative and between the cooperative and its members.³⁰ The articles of association in the deed of establishment of the Cooperative consist of³¹:

- a. List of founders' names;
- b. Name and place of residence;
- c. Intent and purpose and business field;
- d. Terms and conditions regarding membership;
- e. Provisions regarding Members' Meetings;
- f. Provisions regarding management;
- g. Provisions regarding capital;
- h. Provisions regarding the period of its establishment;
- i. Provisions regarding the distribution of remaining business results;
- j. Provisions regarding sanctions.

The results of the founding meeting are included in the minutes or minutes of the Village Deliberation or Sub-district Deliberation signed by all meeting leaders. In the case of the Village Deliberation or Sub-district Deliberation regarding the meeting to establish the Red and White Cooperative can also be attended by the NPAK, then the NPAK is obliged to record the agreement on the main points of the discussion results in the establishment meeting, to be formulated in the deed of establishment of the Red and White Cooperative.³² The results of the Cooperative establishment meeting attended by NPAK, or not attended by NPAK, must include a recommendation letter from the local Village or Sub-district Office, regarding the implementation of the establishment of the Red and White Cooperative.³³

Next, the founders of the Cooperative complete the supporting documents as formal requirements for submitting the application for ratification of the Cooperative Legal Entity to the Ministry of Law. Supporting documents are in the form of proof of capital deposit, at least the amount of the principal savings, and can be added to the mandatory savings and grants and the cooperative's work plan.³⁴ For cooperatives with a savings and loan type of business or having a savings and loan business unit, additional required documents include: a work plan of at least 3 years; administration and bookkeeping, name and resume of prospective managers and a list of work facilities.³⁵ Minutes or minutes of the Village Deliberation or Sub-district Deliberation and supporting documents are submitted to NPAK. Furthermore, NPAK makes a deed of establishment of the Merah Putih Cooperative and submits an application for ratification of the Cooperative Legal Entity to the Ministry of Law to obtain electronic ratification through the Cooperative SABH.

The preparation of the deed of establishment of the Merah Putih Village Cooperative has differences with the deed of establishment of Cooperatives in general. Here are some differences in the rules that need to be considered in making the deed of establishment of the Merah Putih Village Cooperative, namely:

- a. There are differences regarding the requirements for submitting a Cooperative name in general with the Red and White Cooperative. The submission of the Red and White Cooperative name does not include the type of Cooperative in its name. The name of the Cooperative for the establishment of the Red and White Cooperative is required to add the phrase "Red and White Village" or "Red and White Sub-district" and ends with the name of the Village or Sub-

²⁹PPKL is an officer affiliated with the Ministry of Cooperatives who provides cooperative counseling to the community or strategic community groups who wish to establish a cooperative, but is now often referred to as a Cooperative assistance officer.

³⁰Windi Arista, Warmiyana Zairi Absi, Rusniati, Hendri S., Cooperative Law, Solok: Yayasan Pendidikan Cendekia Muslim Press, December 2021, p. 68

³¹Law Number 25 of 1992 concerning Cooperatives

³²Implementation Instructions of the Minister of Cooperatives Number 1 of 2025 Concerning the Establishment of Village/Sub-district Cooperatives Merah Putih

³³Ibid,

³⁴Article 12 paragraph 3, Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 14 of 2019 concerning the Ratification of Cooperatives.

³⁵Ibid, article 13

district where the Cooperative is located. When submitting the name of the Red and White Cooperative, it is possible that the name of the Village or Sub-district of a place has similarities and similarities with the name of the Village or Sub-district in another place. If this happens, it is necessary to add an identification of the administrative area, by including an additional name of the administrative area in the form of a District, Regency or Province, after the name of the Village or Sub-district. For example, "Red and White Village Cooperative Pandau Jaya, Siak Hulu District". Meanwhile, the requirements for submitting a general Cooperative name must include the name and type of Cooperative³⁶. Regarding the provisions related to the substance of the name of a general cooperative, it must comply with the following legal rules for naming cooperatives: the name of the cooperative must contain at least 3 (three) words, after the phrase Cooperative and include the type of cooperative; use Latin letters; has not been legally used by another Cooperative; does not conflict with public order and/or morality; is not the same or similar to the name of a state institution, government institution, or international institution, unless permission is obtained from the institution; does not consist of numbers or series of numbers, letters or series of letters, which do not form words. According to the author, the provisions for submitting the name of the Red and White Cooperative are contrary to the rules regarding the requirements for submitting a Cooperative name as stated in, because based on Article 6 paragraph 2 of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia No. 14 of 2019 concerning the Ratification of Cooperatives (hereinafter referred to as Permenkumham No. 14 of 2019), it is stated that the format for submitting a Cooperative name must include the name and type of Cooperative³⁷. The inclusion of the type of Cooperative aims to facilitate the identification of the main business activities of the Cooperative and adjust the Cooperative's business license.

- b. The Red and White Cooperative does not have a type of business, such as a Consumer Cooperative, Marketing Cooperative, Service Cooperative, Savings and Loan Cooperative, Producer Cooperative or Multi-Party Cooperative, so that in the deed of establishment of the Red and White Cooperative it does not divide its business activities into several parts. Unlike the Red and White Cooperative, in general Cooperatives there are types of businesses and they divide the Cooperative's business activities into three parts of activities, namely main activities, supporting activities and additional activities. As a result of the absence of types of businesses and division of business activities in the Red and White Cooperative, the business activities listed in the Cooperative deed become the main business for the Red and White Cooperative. The planned business activities of the Red and White Cooperative are in the form of procurement of basic necessities, savings and loans, clinics, pharmacies, cold storage/warehousing and logistics³⁸. The absence of division of business activities makes it difficult to determine the focus and business objectives of the Cooperative, thus making it difficult to prepare a Cooperative business plan.
- c. Regarding the management structure of the Red and White Cooperative with general cooperatives, there are differences. Although the general cooperative and the Red and White Cooperative have an odd number of administrators, the Red and White Cooperative is required to have a minimum of 5 administrators consisting of a Chairperson, Deputy Chairperson for Business, Deputy Chairperson for Membership, Secretary and Treasurer.³⁹, while the number of administrators in a general cooperative is a minimum of 3 people consisting of the Chairperson, Secretary and Treasurer.
- d. There are also different rules for the election of supervisors for the Red and White Cooperative compared to general cooperatives, where the Chair of the Cooperative Supervisory Board is held directly by the local Village Head, as ex-officio Cooperative Supervisor.⁴⁰. Ex-officio⁴¹In the supervisory cooperative, it can be interpreted that someone is

³⁷Types of cooperatives in Indonesia consist of service cooperatives, savings and loan cooperatives, marketing cooperatives, producer cooperatives and consumer cooperatives. Finally, on October 28, 2021, a new type of cooperative was introduced, known as the Multi-Party Cooperative in accordance with the Regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia Number 8 of 2021 concerning Cooperatives with the Multi-Party Cooperative Model.

³⁸Circular Letter of the Minister of Cooperatives Number 1 of 2025, Concerning the Procedures for Establishing the Red and White Village Cooperative

³⁹Implementation Instructions of the Minister of Cooperatives Number 1 of 2025 Concerning the Establishment of Village/Sub-district Cooperatives Merah Putih

⁴⁰*Ibid*

⁴¹The term ex officio comes from Latin which literally means "from the office", and the meaning intended here is "by right of office"; this term has been used since the time of the Roman Republic, https://id.wikipedia.org/wiki/Ex_officio_Member

automatically appointed as the chairman of the supervisory cooperative Merah Putih because of his position as the local village head official. Similar to the Village-Owned Enterprise, the BUMDes Advisor is ex-officio held by the Village Head⁴². Compared to general cooperatives, where the chairman of the supervisory board and members of the supervisory board are selected from the members of the cooperative and there is no regulation regarding ex-officio. The number of supervisors of the Red and White Cooperative and general cooperatives is odd and at least 3 people consisting of the chairman and members of the supervisory board. So that in the articles of association regarding the provisions of the Red and White Cooperative supervisors, a clause must be included that reads "The Chairman of the Red and White Village/Sub-district Cooperative Supervisory Board is held by the Village Head/Sub-district Head as the ex-officio Cooperative Supervisor".

- e. The membership area of the Red and White Cooperative shows the scope of the domicile of the cooperative members. There are three choices of cooperative membership areas for general cooperatives, namely cross-provincial membership areas, cross-district/city membership areas, and one district/city membership areas.⁴³. The Cooperative membership area also shows the domicile boundaries where people (individuals or legal entities) can become members of a particular Cooperative. Determining this area is important to maintain the effectiveness of service, management, and member involvement. However, for the Red and White Cooperative, the membership area is only one Regency or City or is known as the Regency or City level Cooperative only. This is because the establishment of the Red and White Cooperative is intended for people who are domiciled in a particular Village or Sub-district. If there are members, administrators or supervisors of the cooperative who have a population identity outside the Cooperative membership area, then the person concerned is required to attach a domicile certificate⁴⁴. The certificate is issued by the Village or Sub-district and legalized by the Sub-district Head in the area where the Cooperative is domiciled. The certificate of domicile must then be explicitly stated in the comparison section of the deed of establishment or amendment to the cooperative deed.
- f. Finally, for the Red and White Cooperative, when submitting the application for the establishment and ratification of the Cooperative's legal entity, it is mandatory to have an attachment of a recommendation letter from the local Village or Sub-district Office regarding the establishment of the Red and White Cooperative, while for general Cooperatives, when registering for ratification of the Cooperative's legal entity, it does not require a document in the form of a recommendation letter from the Ministry of Cooperatives or the local Cooperative Office regarding the implementation and counseling of the establishment of the Cooperative. In addition, in the General Legal Administration System (SABH) for cooperatives, in the types section there are additional choices of cooperative types, which usually only consist of savings and loans, producers, marketing, services, consumers, marketing, but for the Red and White Cooperative there are additional clickable options, namely the KDMP (Red and White Village Cooperative) or KKMP (Red and White Sub-district Cooperative) buttons.

3.2. The role of the Cooperative Deed Notary (NPAK) in Establishment of the Red and White Village/Sub-district Cooperative.

A notary as a public official who is authorized to make cooperative deeds is a notary who has certification as a notary who makes cooperative deeds (NPAK).⁴⁵. Based on the regulation of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia, only the Notary who makes the Cooperative Deed (NPAK) can be given the authority to make the deed of establishment, deed of amendment to the articles of association or other deeds related to the Cooperative.⁴⁶. From the Ministerial Decree, it can be concluded that not all Notaries can make Deeds of Establishment, changes to Cooperatives and other deeds related to Cooperatives, so that those who play a role in making

⁴²Jusman Khairul Hadi, Position of Village-Owned Enterprises (Bumdes) Based on Law Number 11 of 2020 Concerning Job Creation, *Juridica*, Volume 3, Number 1, November 2021, DOI: <https://doi.org/10.46601/juridica.v2i2.190>, p. 42

⁴³The cross-provincial membership area is also known as a national-level cooperative where the members of the cooperative come from more than one province. The cross-district/city membership area is known as a provincial-level cooperative where the members of the cooperative come from more than one district/city in the province. The district/city membership area is known as a district/city-level cooperative where the members of the cooperative come from one district or city.

⁴⁴Jusman Khairul Hadi, Op. cit., p. 25.

⁴⁵Decree of the Minister of Cooperatives and Small and Medium Enterprises of the Republic of Indonesia, Number: 98/Kep/M.KUKM/IX/2024 Concerning Notaries as Cooperative Deed Makers, Article 4

⁴⁶Ibid, Article 1 Number 4.

Deeds of Establishment of cooperatives must first have the certification. This is because Cooperatives are a special field of science that requires expertise in handling it.

For a Notary to become an NPAK, the Notary must fulfill various requirements stipulated by law, including:⁴⁷:

1. Has been appointed in accordance with the law as a Notary Public.
2. Has attended training organized by the Ministry of Cooperatives in collaboration with the Indonesian Notary Association.
3. It has been declared completed or passed the training as evidenced by a certificate signed by the Minister cq. Deputy for Institutional Affairs.
4. Notaries who have met the above requirements can submit a written application to the Minister cq. Deputy for Institutional Affairs by attaching documents in the form of a Notary Appointment Decree issued by the Ministry of Law, a training certificate in the field of Cooperatives, and including the office address, sample signature, initials, and the Notary's stamp.
5. Next, the ministry will provide a decision regarding NPAK with a Ministerial Decree.

Notaries who have been officially appointed as Notaries for Making Cooperative Deeds (NPAK) can carry out their duties in the cooperative sector, namely making authentic deeds regarding the establishment or changes to the cooperative's articles of association and requesting their ratification from the Ministry of Cooperatives, making other deeds related to Cooperative activities, recording the minutes of the cooperative deed to then be stored at the Notary's office as a State document that must be kept for life, and issuing copies of the deed to be given to related parties in accordance with the regulations applicable to the Notary Position.

As a party that has a major role in the legality of cooperatives in Indonesia, the Notary of the Cooperative Deed Maker (NPAK), In the program to establish this red and white cooperative, NPAK is required to be able to play an active role and participate in order to support the acceleration of the Red and White Village Cooperative (KKDMP) program and the Red and White Sub-district Cooperative (KKMP) based on Presidential Instruction of the Republic of Indonesia Number 9 of 2025 concerning the Acceleration of the Establishment of Red and White Village/Sub-district Cooperatives. The following will discuss the roles of the Notary of the Cooperative Deed Maker in the establishment and ratification of the Red and White Village Cooperative.

1. Providing Legal Counseling to Village/Sub-district Communities Regarding the Establishment of the Red and White Cooperative Legal Entity.

Based on the Notary Law, Number 2 of 2014, in Article 15 paragraph 2 letter e, a Notary must be able to provide Legal Counseling related to the making of a deed, namely by providing legal consultation to the community, as well as in the case of Cooperatives, Notaries play an important role in providing Knowledge and information to the community regarding problems or questions related to Cooperatives.

The Red and White Village Cooperative as one of the new government programs in 2025, which is currently being intensively implemented, of course, cannot be separated from the Role of the Notary Making the Cooperative Deed (NPAK) as one of the professions that will be very involved in this government program. As a new program, of course, it raises many questions among the public, whether the Red and White Village Cooperative is the same as a Cooperative in general, especially when it was established. This is where the Notary plays a role in explaining to the public about the legal aspects of the Establishment of the Red and White Cooperative, in order to educate or provide information because even though they are both Cooperative Legal Entities, there are several significant differences with Cooperatives in general. So that the Notary Making the Cooperative Deed is also required to first study the latest legal aspects related to the establishment of the Red and White Village Cooperative.

Notaries must play an active role in conducting legal counseling or socialization to the Village or Sub-district community regarding the Red and White Cooperative, including the benefits that will be obtained from this government program, new provisions that must be known, the mechanism or working methods of the Red and White Cooperative, considering that the government is targeting a time to immediately be able to run the program to establish 80,000 Red and White Cooperatives, while the Social Service has limitations, so the role of

⁴⁷ Suyahman, NPAK: Notary Making Cooperative Deeds, What are the Requirements and Duties?, Sah! News, December 29, 2022, <https://news.sah.co.id/npak-notaris-pembuat-akta-koperasi-apa-syarat-dan-tugasnya/>

the Notary as the Cooperative Deed Maker is very much needed to provide information and knowledge to the community regarding this program. Notaries can work together with Village/Sub-district officials to facilitate the counseling or socialization.

Formation of the red and white cooperative

2. The Notary who makes the Cooperative Deed (NPAK) is obliged to adhere to the implementation instructions for the establishment of the Red and White Village/Sub-district cooperative.

In the establishment of the Red and White Village/Sub-district cooperative, NPAK is required to comply with the rules contained in the implementing instructions of the Minister of Cooperatives of the Republic of Indonesia number 1 of 2025 concerning the Establishment of the Red and White Village/Sub-district cooperative. There are several government policies related to the Establishment of the Red and White Cooperative, making NPAK in its implementation must refer to the regulations made specifically by the government for this Red and White Cooperative, so that in its implementation if there is a difference from the implementation of cooperatives in general, these implementing instructions will be the main guideline. Starting from the procedures or mechanisms for its establishment or changes including the registration mechanism for the Red and White cooperative as a legal entity, writing the name on the cooperative deed, namely by adding the word Village or Sub-district and followed by the name of the Village or Sub-district, also the composition of its management and business activities of the Red and White cooperative.

3. The Notary who makes the Cooperative Deed plays a role in harmonizing the Articles of Association of the Merah Putih Village Cooperative with related regulations.

Based on the Ministerial Regulation, the main task of the Notary who makes Cooperative Deeds is to provide services to the community in the stages of establishment, changes and others, namely making Cooperative Establishment Deeds, making Deeds of amendments to the articles of association and other deeds related to all cooperative activities.⁴⁸ The notary will make a deed of establishment of the cooperative based on the results of the cooperative establishment meeting held by all the founders of the cooperative.

There are several provisions set by the government related to the establishment of this red and white cooperative which are different from cooperatives in general, so that the Notary must study how to prepare and make a deed for this red and white cooperative, because there are differences in formulating its articles of association, these differences as described in the first problem formulation, so that the Notary needs to re-arrange the composition of the red and white cooperative articles of association to be adjusted to the regulations related to the red and white cooperative. Starting from the preparation of the cooperative name which must include "Red and White Cooperative" to be followed by the name of the Village or Sub-district. Furthermore, regarding the type of cooperative business, in the deed of establishment of the Red and White Village/Sub-district Cooperative, business activities are not classified into one of the types of cooperative businesses in general (consumers, savings and loans, producers, services, marketing), so that in the articles of association there is no division of business activities into main business groups, supporting businesses and additional businesses, but only lists business activities without classifying them and also not grouping their businesses like in cooperatives in general.

4. Guarantee the legality and legal certainty of the ratification of the Merah Putih Village Cooperative/Red Putih Sub-district Cooperative.

The Notary Public Making the Cooperative Deed (NPAK) also plays a role in ensuring the legality and legal certainty of the Red and White Village/Sub-district cooperative. In ensuring the legality and legal certainty, the NPAK needs to apply the principle of caution, such as when the Notary receives documents from the parties, the Notary must ensure the authenticity of the submitted documents, make a statement signed by the parties regarding the truth of the identity submitted to him, and ensure that there are no documents or data that are incomplete. After that, ensure that all requirements are complete and in accordance with applicable regulations, make an authentic deed regarding the establishment or amendment of the cooperative's articles of association in accordance with Implementation Instructions of the Minister of Cooperatives Number 1 of 2025 concerning the Establishment of Red and White Village/Sub-district Cooperatives, all must be implemented with the principle of caution, because the Notary is responsible for the contents related to the establishment and changes to the

⁴⁸*Ibid*, Article 2 paragraph 1.

Cooperative. In addition, the Notary must also provide approval for the budget to participate in supporting the ease, facilitating and changes to the establishment of the active basis of cooperatives in the program and the framework for accelerating the formation of KDMP/KKMP based on Presidential Instruction of the Republic of Indonesia Number 9 of 2025 concerning the Acceleration of the Establishment of Red and White Village/Sub-district Cooperatives⁴⁹.

Thus, the role of the Notary who makes the Cooperative Deed (NPAK) is related to the formation of the Merah Putih Village/Sub-district Cooperative, either through the establishment, revitalization or development of existing cooperatives, and harmonizing them with the latest regulations related to the Merah Putih Cooperative, as well as guaranteeing the legality of the Merah Putih Cooperative until it becomes a legal entity.

4. CONCLUSION

Based on the discussion of the problems above, it can be concluded that there are several differences in the formation mechanism of the Merah Putih Village/Sub-district Cooperative with Cooperatives in general, this is due to the existence of special provisions stipulated by the government related to the Merah Putih Village/Sub-district Cooperative, so that there are differences in the preparation of its articles of association, and in this case the Notaries who make Cooperative Deeds (NPAK) have a big role in being able to understand and adjust the articles of association of the Merah Putih cooperative with Implementation Instructions of the Minister of Cooperatives Number 1 of 2025 concerning the Establishment of Red and White Village/Sub-district Cooperatives.

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