

BUKTI KORESPONDENSI

Judul : Legality of the legal entity of the foundation as a continuation of the former foundation which contains the assets of the former foundation

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No	Perihal	Tanggal
1.	Bukti submit artikel	14 Desember 2022
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14 Desember 2022 at 10:30

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Items	Grade
Overall evaluation on the paper	
1. Contribution to existing knowledge	4
2. Appropriate formatting and structure	4.0
3. Readability	3.0
4. Soundness of methodology	4.5
5. Evidence supports conclusion	4.5
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❖ **Strengths**

The paper entitled “**Legality of the legal entity of the foundation as a continuation of the former foundation which contains the assets of the former foundation**” is received for review; this study is contributive to the literature and in my view the above title is suitable for publication

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❖ **Weaknesses**



- Provide paper structure.
- Proofread the work



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5=Excellent 4=Good 3=Average 2=Below Average 1=Poor n/a=Not Applicable	
Items	Grade
Overall evaluation on the paper	
1. Contribution to existing knowledge	4
2. Appropriate formatting and structure	4.0
3. Readability	3.0
4. Soundness of methodology	4.5
5. Evidence supports conclusion	4.5
6. Adequacy of literature review	4.5
❖ Strengths	
The paper entitled “ Legality of the legal entity of the foundation as a continuation of the former foundation which contains the assets of the former foundation ” addresses the recent issues which may contribute towards the practical considerations. In my view, the above title is suitable for publication Baltic Journal of Law & Politics .	
❖ Weaknesses	



- In my view the authors must
 - a. Use APA style for the tables.
 - b. Do formatting of the document.
 - c. Provide references to the statements.



Elis Herlina <elis.herlina@uninus.ac.id>

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23 Januari 2023 at 20.40

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Congratulations upon the acceptance of your research paper into our Scopus Indexed Journal.

It's my pleasure to inform you that, after the peer review, your paper, "**LEGALITY OF THE LEGAL ENTITY OF THE FOUNDATION AS A CONTINUATION OF THE FORMER FOUNDATION WHICH CONTAINS THE ASSETS OF THE FORMER FOUNDATION**" has been ACCEPTED to publish with Baltic Journal of Law & Politics (BJLP), ISSN: 2029-0454. It will be published in the Volume 16 Issue 03; 2023.

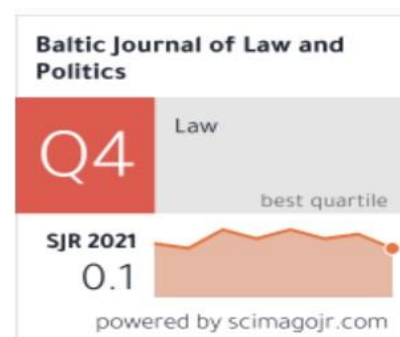
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Sincerely,

Senior Editor-in-Chief

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Abstract

Foundations that have been established before the enactment of Law Number 16 of 2001 concerning Foundations jo Law Number 28 of 2004 must adjust to these provisions. Ratification of the legal entity of the Foundation which in the deed there is a presumption of continuation of the old Foundation including its assets, must fulfill the legality aspect. Meet the requirements for the establishment of a Foundation which in its Deed of Establishment Contains Presmise of the Continuation of the Old Foundation Including Assets to Apply for Legal Entity Status. It is hoped that it can provide important input for the interests of the State, especially the community in the establishment of a foundation that contains the premise of the continuation of the old foundation including its assets in order to avoid disputes in the future. The legality of the Legal Entity of the Foundation as a continuation of the old Foundation which includes the assets of the old Foundation must meet the

requirements as contained in the provisions of Government Regulation of the Republic of Indonesia Number 2 of 2013 concerning Amendments to Government Regulation Number 63 of 2008 concerning Implementation of the Law on Foundations. Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 2 of 2016 concerning Procedures for Submission of Applications for Legal Entity Ratification and Approval of Amendments to the Articles of Association as well as Submission of Notification of Amendments to the Articles of Association and Changes in Foundation Data and the approval of the founders of the old Foundation.

Keywords

legal entity; assets; legality; former foundation.

1. Introduction

The Republic of Indonesia is a state based on Pancasila and the 1945 Constitution, Article 1 paragraph (3) of the 1945 Constitution states that the Indonesian state is a state of law.¹ The state of law in a simple sense is a state that organizes its government power based on law. As a state of law, in life the law becomes a guideline in the association of society and in government, without exception every citizen is equal in the eyes of the law.²

The rule of law requires that the law must always be upheld, respected and obeyed by anyone without exception. This is to create security, order, welfare in the life of society and the state, including in giving certainty to the property rights of the foundation. A foundation is a body or institution engaged in the social, educational and cultural, and religious fields.³ According to Van Apeldoorn, a foundation is an asset that has a specific purpose, which in reality is treated as if it were a legal subject. Law Number 16 Year 2001 on Foundations confirms the position of foundations as legal entities. The foundation law then underwent changes, namely through Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001. Before the birth of the Republic of Indonesia Law Number 16 of 2001 concerning Foundations and Law No. 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations. The establishment of foundations in Indonesia is done based on customs in society, doctrine and jurisprudence.⁴

The implementation of Law No. 28 of 2004 has brought about greater clarity and firmness in the regulations governing foundations. All foundations that existed prior to the enactment of Law Number 16 of 2001 on Foundations, along with Law Number 28 of 2004, are required to conform to these provisions. Additionally, the

¹ Tolib Setiady, *Dasar-Dasar Pendidikan Kewarganegaraan Indonesia*, Puataka setia, Bandung, 2010, Hlm. 142

² Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2010).

³ Chatamarasjid Ais, *Badan Hukum Yayasan*, Bandung: PT. Citra Aditya Bakti, Cet., Ke-1, 2002, hlm. 81

⁴ Chatamarrasjid Ais, *Badan Hukum Yayasan (Suatu Analisa Mengenai Yayasan Sebagai Suatu Badan Sosial)*, Cetakan Pertama, (Bandung : Citra Aditya Bakti, 2002), hlm 1

legal framework for foundations is further specified in Government Regulation of the Republic of Indonesia Number 2 of 2013, which pertains to amendments to Government Regulation Number 63 of 2008 on the implementation of the Law on Foundations.

In cases where foundations are unable to use the term "foundation" in their registration for legal entity status, as stipulated by the provisions of Law Number 28 of 2004, due to their origin as older foundations, they must seek authorization from the Minister of Law and Human Rights. These foundations are obliged to comply with the provisions outlined in Article 15A or Article 37A of Government Regulation of the Republic of Indonesia Number 2 of 2013, which specifically addresses the amendments to Government Regulation Number 63 of 2008 on the implementation of the Law on Foundations.

Article 15A of Government Regulation of the Republic of Indonesia Number 2 of 2013 concerning Amendments to Government Regulation Number 63 of 2008 concerning the Implementation of the Law on Foundations, states that in the case of an application for ratification of the deed of establishment of the Foundation as referred to in Article 15 paragraph (1) and the initial wealth of the Foundation comes from a Foundation that is no longer able to use the word "Foundation" in front of its name, the application for ratification is attached:

- a. a copy of the Foundation Establishment Deed which in the premise of the deed states the origin of the Foundation's establishment including the wealth of the Foundation concerned;
- b. Foundation activity report for at least the last 5 (five) years consecutively signed by the Foundation Management and known by the relevant agencies;
- c. a statement letter from the Foundation Management that the Foundation has never been dissolved voluntarily or based on a court decision;
- d. photocopy of the Foundation's Taxpayer Identification Number which has been legalized by a notary;
- e. a statement letter of domicile accompanied by the full address of the Foundation signed by the Foundation Management and known by the local village head or village head;
- f. written statement from the Foundation Management containing information on the value of wealth at the time of the adjustment of the Articles of Association;
- g. Management statement letter regarding the validity of the Foundation's assets; and
- h. proof of depositing the cost of legalization and announcement of the Foundation.

Article 37A paragraph 1 and paragraph 2 states:

1. In the event that the amendment to the Articles of Association as referred to in Article 37 paragraph (1) is carried out for a Foundation that cannot use the word "Foundation" in front of its name, the Foundation must fulfill the following requirements:

- a. for at least 5 (five) consecutive years before the adjustment of the Articles of Association still carry out activities in accordance with the Articles of Association; and
- b. has never been dissolved.
2. Amendment to the Articles of Association of the Foundation as referred to in paragraph (1) is carried out by amending the entire Articles of Association of the Foundation and including:
 - a. all Foundation assets owned at the time of adjustment, as evidenced by:
 - 1) financial statements made and signed by the Foundation Management; or
 - 2) financial statements that have been audited by a public accountant for Foundations whose financial statements must be audited in accordance with the provisions of the Act;
 - b. data regarding the names of members of the Trustees, Management, and Supervisors appointed at the time of the amendment in the context of adjusting the Articles of Association.

Foundations that cannot use the word Foundation should immediately adjust according to the provisions so that no disputes occur in the future, because it does not rule out the possibility of a dispute between the founders in the establishment of a new Foundation to adjust to the existing provisions. Disputes as a continuation of the old Foundation that claim each other so that the most entitled to continue managing the assets of the old Foundation occur as in the example of the case of the An-Nur Permai Foundation in Pondok Gede with the Annur Jatibening Permai Endowment Foundation where both claim to be a continuation of the An-Nur Mosque Foundation so that they can manage the assets of the An-Nur Mosque Foundation.

The Annur Jatibening Permai Endowment Foundation has been managing the assets of the an-nur mosque foundation since 2010 and in 2022 the Annur Jatibening Permai Endowment Foundation was established and in its deed there is a premise of continuation of the an-nur mosque foundation and assets under the management of the Annur Jatibening Permai Endowment Foundation are claimed in its deed as the assets of the Annur Jatibening Permai Endowment Foundation and the establishment of the Annur Jatibening Permai Endowment Foundation was legalized as a legal entity by the minister of law and human rights with Number AHU-0004634.AH.01 .04.Year 2022 concerning Ratification of the Establishment of the Legal Entity of the Annur Jatibening Permai Endowment Foundation, dated February 18, 2022, this is certainly an uncertainty in the management of these assets. Based on this background, this study contains research questions to guide the analysis described as follows: How is the Legality of the Foundation Legal Entity as a continuation of the old Foundation which contains the assets of the old Foundation?, and What are the Legal Consequences of the Foundation Legal Entity as a continuation of the old Foundation which contains the assets of the old Foundation?

The contribution of this research Theoretically provides information about the requirements of the Foundation which in the Deed of Establishment Contains the Presmise of the Continuation of the Old Foundation Including Assets to Apply

for Legal Entity Status. Practically, the results of this study are expected to provide important input for the interests of the State, especially the community in the establishment of a foundation that contains the premise of the continuation of the old foundation including its assets.

2. Research Methods

The research in this study adopts a normative juridical approach, which is a type of library-based legal research. The normative juridical approach involves utilizing secondary data and library materials as the primary sources for the research.⁵ In research employing a juridical approach, the law is conceptualized as an autonomous and self-contained normative system that operates independently from the legal realities of society. It also involves examining the legal rules applicable within society.⁶ Specifically, the method used in this research is a statutory approach, which entails analyzing Law No. 28 of 2004 concerning Amendments to Law No. 16 of 2001 concerning Foundations, as well as Government Regulation of the Republic of Indonesia Number 2 of 2013 concerning Amendments to Government Regulation Number 63 of 2008 concerning the Implementation of the Law on Foundations.

The research specification used is descriptive analytical, namely research conducted with the aim of obtaining suggestions on what should be done to solve the problems that occur.⁷ Analyzing the object of research by describing the situation and circumstances, by means of describing the data obtained as it is, which is then analyzed and produces several conclusions. The method of data analysis to draw conclusions from the research results is carried out using qualitative normative analysis methods, namely from the data obtained arranged logically, systematically without using numbers. Qualitative does not require a hypothesis, it sometimes ends with a hypothesis. The researcher uses a natural portrayal technique of the phenomena that arise as well as himself as the research instrument itself. Drawing conclusions by induction by finding one of the patterns that apply from the plurality and complexity of norms. The research language is packaged descriptively.⁸

3. Results and Discussion

3.1. Legality of The Foundation's Legal Entity as A Continuation of the Old Foundation

In legal relationships, it is not only individuals who bear rights and obligations. Apart from individuals, there are other entities known as legal entities

⁵Abdulkadir Muhammad, *Hukum dan Penelitian Hukum*, PT. Citra Aditya Bakti, Bandung, 2004, hlm. 98

⁶ Soerjono Soekanto dan Sri Mamuji, *Penelitian Hukum Normatif*, Rajawali, Jakarta, 1985, hlm 24

⁷ Gempur Santoso, *Metodologi Penelitian Kuantitatif & Kualitatif*, Prestasi Pustaka Publisher, 2005, hlm 45

⁸ *Ofcit.*, hlm 106

(rechtspersoon) that also participate in these rights and obligations, distinguishing them from individuals (natuurlijk persoon). This introduces a legal concept called legal entities, which possess rights, legal obligations, and the ability to engage in legal relationships.⁹ One type of legal entity that exists in Indonesia is the foundation. However, foundations differ significantly from other legal entities. Foundations are not established with the primary goal of seeking profit. Instead, they serve as forums or institutions with social, religious, and humanitarian purposes. The presence of foundations fulfills the need for individuals seeking a platform or organization to promote these specific objectives.¹⁰

Based on article 1 paragraph 1 of Law of the Republic of Indonesia Number 16 of 2001 concerning Foundations, states that the Foundation is a legal entity consisting of assets separated and intended to achieve certain goals in the social, religious and humanitarian fields, which do not have members. Based on article 9 of Law Number 16 of 2001 concerning Foundations, to establish a Foundation is regulated as follows:

1. The Foundation is established by one or more people by separating part of the founder's assets, as initial wealth.
2. The establishment of the Foundation as referred to in paragraph (1) is carried out by notarial deed and made in Indonesian.
3. The Foundation can be established based on a will.
4. The cost of making a notarial deed as referred to in paragraph (2) is stipulated by Government Regulation.
5. In the event that the Foundation as referred to in paragraph (1) is established by a foreigner or together with a foreigner, regarding the requirements and procedures for the establishment of the Foundation are regulated by Government Regulation.

Based on the aforementioned regulations, notaries play a crucial role in the formation of a Foundation. Through the creation of a notarial deed, the Foundation attains the status of a legal entity, as stated in Article 11 of Law Number 16 of 2001 concerning Foundations, which states the following:

1. The Foundation acquires legal entity status upon obtaining authorization from the Minister, as outlined in the Foundation establishment deed mentioned in Article 9, paragraph (2).
2. The Minister delegates the authority to grant the ratification of the Foundation's establishment deed as a legal entity to the Head of the Regional Office of the Ministry of Justice and Human Rights, who operates within the jurisdiction encompassing the Foundation's registered location.
3. In the process of granting ratification, the Head of the Regional Office of the Ministry of Justice and Human Rights, as mentioned in paragraph (2), may seek input from relevant agencies.

⁹ Teng Berlianty, *Hukum Organisasi Perusahaan*. Zifatama Jawara, hlm 25

¹⁰ Arie Kusumastuti Maria Suhardiadi, *Hukum Yayasan di Indonesia* (Jakarta : Indonesi Legal Center Publishing, 2002), hlm. 1

Since the enactment of Law Number 16 of 2001 concerning Foundations and its amendment Law Number 28 of 2004 concerning the second amendment to Law Number 16 of 2001 concerning Foundations, all Foundations that have been established must be able to adjust to these provisions as stipulated in Article 71 of Law Number 28 of 2004 concerning the second amendment to Law Number 16 of 2001 concerning Foundations which states:

- 1) "When this Act comes into force:
 - a. Foundations that have been registered at the District Court and announced in the Supplement to the State Gazette of the Republic of Indonesia; or
 - b. has been registered at the District Court and has a license to carry out activities from the relevant agency;
is still recognized as a legal entity provided that within a period of no later than 3 (three) years from the date this Act comes into force, the Foundation is required to adjust its Articles of Association to the provisions of this Act.
- 2) Foundations that have been established and do not fulfill the provisions as referred to in paragraph (1), can obtain the status of a legal entity by adjusting its Articles of Association to the provisions of this Act, and submitting an application to the Minister within a period of no later than 1 (one) year from the date this Act comes into force.
- 3) The foundation as referred to in paragraph (1), must be notified to the Minister no later than 1 (one) year after the implementation of the adjustment.
- 4) Foundations that do not adjust their Articles of Association within the period referred to in paragraph (1) and the Foundation as referred to in paragraph (2), cannot use the word "Foundation" in front of their name and can be dissolved based on a Court decision at the request of the Prosecutor's Office or an interested party."

As explained above, the old Foundation that has the status of a legal entity is still recognized as a legal entity with a period of 3 years and must adjust the articles of association, for Foundations that have not yet had the status of a legal entity must adjust the articles of association for a maximum of one year and for Foundations that cannot adjust in accordance with the provisions of the Act cannot use the word Foundation in front of its name. For old foundations that cannot use the word Foundation and already have assets, this can have the potential for complications among the founders of the old Foundation as in the case of Decision Number 101/G/2022/PTUN.JKT, in the Jakarta State Administrative Court.

Case Position: The Annur Jatibening Permai Endowment Foundation has been managing the assets of the an-nur mosque foundation from 2010 and in 2022 the Annur Jatibening Permai Endowment Foundation was established and in the deed there is a premise of continuation of the an-nur mosque foundation and assets under the management of the Annur Jatibening Permai Endowment Foundation are claimed in the deed as the assets of the Annur Jatibening Permai Endowment Foundation and the establishment of the Annur Jatibening Permai Endowment

Foundation was legalized as a legal entity by the minister of law and human rights with Number AHU-0004634. AH.01.04. Year 2022 concerning Ratification of the Establishment of the Legal Entity of the Annur Jatibening Permai Endowment Foundation, dated February 18, 2022.

In this case the court decision states that in the Exception "Declare that the Exception of the Defendant and Defendant II Intervention is not accepted in its entirety". Then in the main case stated that:

1. Granting the Plaintiff's claim in its entirety;
2. Declare void the Decree of the Minister of Law and Human Rights Number: AHU-0004634.AH.01.04. Year 2022, dated February 18, 2022 concerning the Ratification of the Establishment of the Legal Entity of the Annur Jatibening Permai Endowment Foundation;
3. Requiring the Defendant to revoke the Decree of the Minister of Law and Human Rights Number: AHU-0004634.AH.01.04. Year 2022, dated February 18, 2022 concerning the Ratification of the Establishment of the Legal Entity of the Annur Jatibening Permai Endowment Foundation;
4. Punish the Defendant and Defendant II Intervention jointly to pay court costs in the amount of Rp. 404,000, - (four hundred four thousand rupiah).

3.2. Regulation of Foundation as a Continuation of the Former Foundation Which Contains the Assets of the Previous Foundation

Foundations that were established prior to the enactment of Law Number 28 of 2004, which amends Law Number 16 of 2001 concerning Foundations, are required to promptly make adjustments and are no longer permitted to use the term "Foundation" as part of their name. This is necessary in order to comply with the prevailing provisions. When establishing a new Foundation as a continuation of the previous one, obtaining legal entity status necessitates consideration of legal aspects.

The term "legality" derives from the word "legal," which refers to something that aligns with laws and regulations. According to the KBBI (Indonesian Dictionary), legality pertains to the state or condition of being legitimate or valid.¹¹ From this perspective, legality pertains to acts or objects that are officially recognized. In the context of law, legality is commonly understood as the principle of legality. This principle is fundamental to the rule of law and is often expressed as "*het beginsel van wetmatigheid van bestuur*," which translates to the principle of the validity of government.¹²

The principle of legality is recognized in State Administrative Law as well.¹³ This principle is derived from Article 1 point 8 of Law Number 51 of 2009, which

¹¹ Rully Desthian Pahlephi, "Kenapa Legalitas Perusahaan Penting? Ini Manfaat Dan Dokumen Yang Harus Dimiliki," *detikfinance*, 2022, <https://finance.detik.com/solusiukm/d-6306085/kenapa-legalitas-perusahaan-penting-ini-manfaat-dan-dokumen-yang-harus-dimiliki>.

¹² Ridwan HR, *Hukum Administrasi Negara*, Rajawali Pers, Jakarta, 2013, Hlm. 91.

¹³ Khudfaifah Dimiyati, *Pemikiran Hukum: Konstruksi Epistemologi Berbasis Budaya Hukum Indonesia* (Yogyakarta: Genta Publishing, 2014).

amends Law Number 5 of 1986 concerning State Administrative Courts. The article states that State Administrative Bodies or Officials are responsible for carrying out government affairs in accordance with applicable laws and regulations. The principle of legality is explicitly mentioned in Article 5 of Law Number 30 of 2014 concerning Government Administration, which includes the following principles:

- a. The principle of legality
- b. The principle of protection of human rights
- c. General principles of good governance

In Article 5, letter a, the principle of legality signifies that the implementation of Government Administration gives priority to the legal basis of decisions and actions made by government agencies and officials. It emphasizes that all provisions that bind citizens must be based on the law. When establishing a new foundation or continuing an existing one to obtain authorization as a legal entity, reference is made to Law Number 28 of 2004, which amends Law Number 16 of 2001 concerning Foundations. As an administrative official with the authority to grant legal entity status to a foundation, it is the Minister of Law and Human Rights.

Authority according to the large Indonesian dictionary, the word authority is equated with the word authority, which is defined as the right and power to act, the power to make decisions, order and delegate responsibilities to other people / agencies. According to Prayudi, there is a difference between the notions of authority (Authority, *gezag*) and authority (Competence, *bevoegheid*). Authority is:

- a. What is called "formal power", namely power derived from legislative power (given by law) or from administrative executive power.
- b. Authority usually consists of several powers.
- c. Authority is power over a certain group of people or power over a field of government.

In the context of public law, authority refers to the power or ability to perform certain actions. It can be understood as the right to carry out governmental matters.¹⁴ Hence, the Minister of Law and Human Rights possesses the authority to issue a decree validating the legal entity status of a foundation. The process of ratifying a foundation's legal entity status is governed by Article 11, Paragraph 2 of Law No. 28 of 2004, which amends Law No. 16 of 2001 concerning Foundations. This article states that to obtain ratification, the founder or their representative must submit an application to the Minister through a notary who prepared the foundation's establishment deed. Accordingly, based on these provisions, the establishment of a foundation and the validation of its legal entity status require the notary to submit an application to the Minister of Law and Human Rights. Therefore, the role of the notary is integral to the establishment process of a foundation.

The validation of a Foundation's Legal Entity, particularly when there is a premise of continuation from an old foundation, is specifically addressed in the

¹⁴ Jum Anggriani, *Hukum Administrasi Negara*, Graha Ilmu, Yogyakarta, 2012, hlm. 88

Government Regulation. This regulation is outlined in Article 15A or Article 37A of the Government Regulation of the Republic of Indonesia Number 2 of 2013, which pertains to amendments to Government Regulation Number 63 of 2008 concerning the Implementation of the Law on Foundations. Additionally, the Minister of Law and Human Rights of the Republic of Indonesia has established regulations on this matter in Article 13, Paragraph 1 of the Regulation of the Minister of Law and Human Rights Number 2 of 2016, which concerns procedures for submitting applications for legal entity validation, approval of amendments to the Articles of Association, as well as notifications of amendments to the Articles of Association and changes in foundation data. In this article, it is stated that filling in the Establishment Format, as referred to in Article 11, Paragraph 3, should be accompanied by supporting documents submitted electronically. Moreover, Paragraph 7 emphasizes the importance of submitting certain documents when applying for the ratification of a foundation's establishment deed, specifically:

- a. A copy of the foundation's establishment deed that includes information regarding the origin of the foundation's establishment and its assets.
- b. A foundation activity report for the last five consecutive years, duly signed by the foundation management and acknowledged by relevant agencies.
- c. A statement letter from the foundation management affirming that the foundation has not been voluntarily dissolved or dissolved based on a court decision.
- d. A notarized photocopy of the foundation's taxpayer identification number.
- e. A statement letter of domicile, along with the complete address of the foundation, signed by the foundation management and acknowledged by the local village head or village head, or an equivalent authority.
- f. A written statement from the foundation management detailing the value of the foundation's assets at the time of adjusting the articles of association.
- g. A management statement attesting to the validity of the foundation's assets.
- h. Proof of payment for the cost of legalizing and announcing the foundation.

Considering the aforementioned provisions in both the Government Regulation of the Republic of Indonesia Number 2 of 2013 and the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 2 of 2016, it is evident that when establishing a new foundation or continuing an old foundation as a legal entity, there are specific requirements that must be fulfilled to obtain authorization from the Minister of Law and Human Rights. These requirements include submitting various documents, one of which is a foundation activity report for a minimum of five years.

According to the author's analysis, submitting the activity report of the old foundation is crucial to minimize potential disputes that may arise concerning the activities conducted by the old foundation. In the process of ratifying the legal entity status of the foundation, which includes the premise of continuation from the old foundation, it is also essential to consider the approval of the founders of the

old foundation for it to be continued by the respective foundation. The ratification of the foundation as a continuation of the old foundation involves presuming the origin of the old foundation's assets in order to obtain legal entity status, in addition to the provisions outlined in Article 15A or Article 37A of the Government Regulation of the Republic of Indonesia Number 2 of 2013 and Article 13, Paragraphs 1 and 7 of the Regulation of the Minister of Law and Human Rights Number 2 of 2016. Consequently, prior to applying for legal entity status, the notary must also consider the ownership of the old foundation's assets, ensuring that they are either owned by the old foundation or by the founders. This is crucial, as ownership of these assets often becomes a contentious issue.

If a Foundation is established without fulfilling the legality requirement, as mandated for the establishment of a foundation as a continuation of an old foundation, the decision letter issued by the Minister of Law and Human Rights can be invalidated. This situation is exemplified by the case of Jakarta State Administrative Court Decision Number 101/G/2022/PTUN.JKT, where the court ruled in favor of Yayasan Annur Permai Pondok Gede and canceled the Minister of Law and Human Rights' Decree Number: AHU-0004634.AH.01.Year 2022, dated February 18, 2022, regarding the Ratification of the Establishment of the Legal Entity of the Annur Jatibening Permai Endowment Foundation. This cancellation by the Jakarta Administrative Court has provided legal certainty for the establishment of a Foundation that includes the premise of continuation from the old Foundation, along with its assets. If the old Foundation has been continued by another Foundation, the founders of the old foundation are prohibited from establishing a new Foundation that incorporates the continuation of the previous Foundation or claiming the assets that have been continued or managed by another Foundation.

4. Conclusion

The legal validity of a Foundation as a continuation of an old Foundation, including its assets, must comply with the requirements stated in Article 15A or Article 37A of Government Regulation of the Republic of Indonesia Number 2 of 2013, which pertains to amendments to Government Regulation Number 63 of 2008 regarding the implementation of the Law on Foundations. Furthermore, it must adhere to the provisions outlined in Article 13, paragraphs 1 and 7, of the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 2 of 2016, which details the procedures for submitting applications for legal entity attestation, approval of amendments to the Articles of Association, as well as notifications of amendments to the Articles of Association and changes in Foundation data. Additionally, the approval of the founders of the old Foundation is necessary.

In terms of legal consequences, the status of a Foundation as a legal entity, acting as a continuation of the old Foundation and encompassing its assets, can be nullified by a state administrative court. This is evident in the case of the Jakarta State Administrative Court Decision Number 101/G/2022/PTUN.JKT, where the

court ruled in favor of Yayasan Annur Permai Pondok Gede and invalidated the Minister of Law and Human Rights' Decree Number: AHU-0004634.AH.01.04.Year 2022, dated February 18, 2022, concerning the ratification of the establishment of the legal entity of the Annur Jatibening Permai Endowment Foundation.

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