

Juridical Analysis of the Establishment and Legalization Procedures for Cooperative Legal Entities Based on the Cooperatives Law

Fani Nayla Bilqis¹, Fadya Amara Putri², Farid³, Uswatun Hasanah⁴

¹University of Lampung, E-mail: faninayllab@gmail.com

²University of Lampung, E-mail: fadyaamaraputri00@gmail.com

³University of Lampung, E-mail: uswatunnhasanahh90@gmail.com

⁴University of Lampung, E-mail: miradatulloh@gmail.com

Abstract

This study examines the legal procedures for establishing cooperatives in Indonesia and the practical challenges faced in obtaining legal entity status. It is motivated by the gap between the normative framework regulating cooperatives and the practical capacity of community groups seeking to establish them. The objectives of this research are to identify and analyze the formal stages required for establishing a cooperative, uncover the main obstacles arising during the legalization process, and provide an understanding of how these challenges affect the effectiveness of cooperative development. Employing a normative legal research method, this study relies on analysis of legislation, literature reviews, and official documents related to cooperative law. The findings indicate that the procedural framework for establishing cooperatives encompassing basic agreement formation, administrative preparation, legal document drafting, registration, and government approval has been clearly regulated. Nevertheless, the implementation of these procedures is often hindered by limitations in legal literacy, administrative difficulties, and insufficient institutional capacity among cooperative initiators. Additionally, regulatory changes and technical requirements further increase the complexity, slowing down the approval process. The discussion also emphasizes that the role of legal professionals, including notaries, is increasingly vital in bridging the gap between regulations and practice through the preparation of authentic deeds and the provision of legal assistance to cooperative founders. Overall, this research offers a new perspective that strengthening cooperatives requires not only

comprehensive regulations but also an integrative approach combining legal, administrative, and educational support to enhance the effectiveness of the cooperative establishment process in Indonesia.

keywords: Cooperative Law, Cooperatives, Administrative Procedures, Institutional Challenges

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A. Introduction

Cooperatives play a very important role in Indonesia's economic system. Cooperatives serve as one of the pillars of the people's economy, providing a vehicle for society to collaborate and develop joint businesses, particularly for Small and Medium Enterprises (SMEs). Based on Law No. 25 of 1992 on Cooperatives, a cooperative is a business entity consisting of individuals or cooperative legal entities, with its activities grounded in cooperative principles as well as functioning as a people's economic movement based on familial principles. The foundational regulation for cooperatives in Indonesia is Law No. 25 of 1992 on Cooperatives (Cooperatives Law). In carrying out its activities, a cooperative is based on cooperative principles, which form the essence of its operations as a business entity and represent its distinctive characteristics and identity, differentiating it from other business entities.¹ Since their first introduction to Indonesian society, cooperative business entities have successfully helped communities

¹ International Cooperative Alliance. *Jatidiri Koperasi ICA Co-operative Identity Statement Prinsip-Prinsip Koperasi untuk Abad ke 21. Terjemahan Pengantar Ibnu Soedjono Lembaga Studi Pengembangan Perkoperasian Indonesia Jakarta, 2001 hal 24-47*

improve their economic capabilities through cooperative business activities. The business principles and characteristics of cooperatives, which differ from other business entities, make this form of enterprise favored by Indonesian society, which conducts all its economic activities based on a people's economy system. This people's economy system in Indonesia is indeed generally very compatible with business entities in the form of cooperatives. Both embrace the principle of familial solidarity and prioritize the concept of gotong royong (mutual cooperation).

Its philosophical and legal foundation is very strong, aligned with the spirit of Article 33 paragraph (1) of the 1945 Constitution, which states that the economy shall be structured based on familial principles. To operate officially and be recognized by the state, every community group wishing to establish a cooperative must go through a series of legal procedures regulated by legislation. This process consists of mandatory stages, from initial preparation, document collection and processing, to the culmination of the process obtaining legal entity approval from the government. It is this approval that renders the cooperative legally valid and recognized.

Although it may seem straightforward, in reality, the process of establishing a cooperative and obtaining legal entity status does not always run smoothly. Many prospective entrepreneurs or community groups intending to form cooperatives often face various practical obstacles and challenges. These challenges can

delay or complicate the process, thereby hindering good intentions to establish an official cooperative.

One of the primary challenges that frequently arises is the lack of adequate knowledge regarding the official procedures for establishing a cooperative. Laypeople often feel confused about the correct steps and the specific documents required. Additionally, issues such as incomplete documentation, difficulties in administrative processes at relevant government offices, and regulatory changes unaccompanied by adequate socialization further complicate the situation.

Given the critical role of cooperatives and the complexity of their establishment process, it is essential to conduct an in-depth analysis of all applicable legal procedures. The objective is to thoroughly examine each stage of cooperative formation from inception to legal entity approval and to specifically identify the real-world challenges faced by communities in practice.

Based on this problem background, the primary focus of this study can be formulated into three key research questions. First, what are the official stages for establishing a cooperative as regulated under applicable laws? Second, what are the actual obstacles or difficulties encountered by cooperative founders in obtaining legal entity approval? Third, what practical solutions or steps can be proposed to address these challenges?

The approach employed in this discussion is the normative legal research method. This study focuses on analyzing various legislative regulations, legal literature (books), and other official sources directly related to cooperative establishment. Through this approach, it is expected to produce an accurate description and analysis of the existing procedures and challenges, thereby providing clear understanding and targeted solutions for the wider community.

B. Discussion

1. Procedures for Establishing Cooperatives under Legislation

A cooperative is a business entity consisting of individuals or legal entities aimed at improving the welfare of its members. A legal entity itself is defined as an organization or association established by an authentic deed, which, in the eyes of the law, is treated as a legal subject. As a legal subject, a legal entity possesses rights and obligations akin to natural persons, enabling it to actively participate in legal acts such as owning property, entering into contracts, and bearing responsibility for its obligations. A legal entity can also be understood as an entity recognized by law as a collective or organization with an identity and assets separate from its members.

To operate officially in conducting its business activities and obtain legal recognition, a cooperative must undergo establishment procedures in accordance with applicable legislation. One of the

primary regulations governing cooperatives is Law No. 25 of 1992 on Cooperatives and its implementing regulations. This Law stipulates that granting status and approving the legal entity of a cooperative falls under the authority of the Minister, thereby conferring full legal legitimacy upon cooperatives that receive such approval.

Law No. 25 of 1992 on Cooperatives does not contain any article explicitly requiring a cooperative's Articles of Association to be made in authentic form, meaning that cooperative establishment only requires a written document (deed), which may be either a private deed or an authentic deed. This provides flexibility for cooperative founders to prepare foundational documents without always involving a notary, provided the deed includes essential elements such as the cooperative's name, address, objectives, membership, organizational structure, and provisions for the distribution of surplus business results.

As stipulated in Article 7 paragraph (1) of the Cooperatives Law, "The formation of a cooperative as referred to in Article 6 shall be conducted through a Deed of Establishment containing the Articles of Association." This affirms that the establishment of a cooperative cannot be done orally or in unwritten form but must be documented in writing through a Deed of Establishment. This Deed contains the Articles of Association, which serve as the fundamental document outlining key provisions on the cooperative's vision, mission, objectives, membership, organizational structure, members' rights

and obligations, and other governance principles. With a complete and comprehensive Articles of Association in the Deed of Establishment, the cooperative can obtain official recognition as a valid legal entity from the government.

Before delving further into the procedures for establishing a cooperative, it is essential to understand the intentions and objectives of the individuals involved, as well as the type of business activities they intend to pursue. This is grounded in the primary purpose of cooperatives, which is to enhance members' welfare through business income. Such understanding is crucial for designing the organizational structure and management from the outset, ensuring effective governance aligned with cooperative principles.

Pursuant to Article 3(2) of Ministry of Cooperatives and Small and Medium Enterprises Regulation No. 01/Per/M.KUKM/I/2006, several key considerations must be addressed in the process of forming a cooperative. First, the founders must ensure that the cooperative has clear and measurable objectives and business activities. Second, the founders of a primary cooperative must be Indonesian citizens who are legally competent and capable of performing legal acts. Third, the founders of a secondary cooperative consist of board members from primary cooperatives, authorized by their respective cooperatives to attend the formation meeting. Fourth, sufficient capital must be available to conduct business activities. Fifth, cooperative management must be

prioritized from the outset by establishing an appropriate organizational structure and governance framework, ensuring sound administration in line with economic democracy principles.

The founders must address aspects of legality, such as fulfilling administrative requirements and drafting a comprehensive and clear Articles of Association, to provide a strong legal foundation for the cooperative and secure legal entity recognition from the authorized government agency. The function and benefit of an authentically notarized Articles of Association lie in its role as evidence. As stipulated in Article 1868 of the Indonesian Civil Code (*Burgerlijk Wetboek*, BW), "An authentic deed is a deed in the form prescribed by law, made before a public official authorized at the place where the deed is drawn up." The primary function of an authentic deed as evidence stems from its strong legal force, whereby it is deemed perfect proof of its contents, as regulated under Article 1870 of the Civil Code, which states that an authentic deed constitutes uncontestable evidence unless proven to be forged or fraudulent.

As part of the government's efforts to strengthen the position of cooperative enterprises which form the backbone of the national economy and to provide legal certainty for their actors, various strategic measures have been implemented. One significant step was the signing of a Memorandum of Understanding (MoU) between the Ministry of Cooperatives and Small and Medium Enterprises and the Indonesian Notary Association (*Ikatan Notaris Indonesia*, INI) on May 4, 2004. This agreement establishes a

foundation for collaboration aimed at enhancing the quality of legal services in the cooperative sector, particularly concerning the establishment of cooperatives, amendments to articles of association, and the preparation of other related notarial deeds.

The signing of the MoU was subsequently followed by the issuance of Ministerial Decree No. 98/KEP/M.KUKM/IX/2004 from the Minister of Cooperatives and Small and Medium Enterprises, which officially appointed the notary as the official authorized to execute cooperative deeds. This decree holds significant relevance, as it ensures that cooperative deeds prepared by notaries constitute authentic instruments providing strong evidentiary value and legal certainty, thereby promoting professionalism and orderly administration in cooperatives. The procedure for establishing a cooperative legal entity is as follows:²

- 1) The stage of formulating the foundational concept for establishing this socio-economic entity involves voluntary agreement among members, without specific restrictions on the type of business, provided it adheres to cooperative principles such as open membership and democratic management.
- 2) In the initial preparation stage, the general procedure for establishing a cooperative involves gathering at least 20 prospective members with shared interests, such as farmers or small traders, to form an initial group. Progressing from the

² Sri Redjeki Hartono, *Hukum Koperasi di Indonesia* (Jakarta: Kencana Prenada Media Group, 2018), hlm. 121

general to the specific, this evolves into drafting a basic business plan that encompasses the cooperative's vision, mission, and type of business (e.g., savings and loan cooperatives or production cooperatives).

- 3) The stage of document preparation and founding meeting involves, more specifically, drafting the articles of association and bylaws, which must generally include the cooperative's name, address, objectives, and organizational structure. From general to specific provisions, these documents should be tailored to the type of cooperative, such as incorporating special clauses for primary or secondary cooperatives. Subsequently, the founding meeting is convened, attended by all prospective members, to appoint the board of directors, supervisory board, and ratify the documents, with specific protocols including a minimum quorum of 75% of members for valid decisions.
- 4) The registration and administrative verification stage of the establishment procedure involves submitting an application to the relevant authority, typically the local Cooperative and SME Office (Dinas Koperasi dan UKM) or the Ministry of Cooperatives and SMEs for national cooperatives. This process requires complete documentation, including the deed of establishment, member list, and proof of initial capital (minimum as stipulated, such as IDR 10 million for small cooperatives).

- 5) Following verification, the final stage involves ratification of the legal entity by the government, which generally confers legal status as a business entity.

According to Article 8 of Law No. 17 of 2012 on Cooperatives, the Articles of Association shall at minimum contain:³

- 1) List of Founders' Name
- 2) Name and Domicile
- 3) Objectives and Purposes, along with Business Fields
- 4) Provisions on Members' Meetings
- 5) Provisions on Management
- 6) Provisions on Capitalization
- 7) Provisions regarding the establishment period
- 8) Provisions regarding the allocation of surplus business results
- 9) Provisions regarding sanctions
- 10) Provisions regarding the establishment period
- 11) Provisions regarding the allocation of surplus business results

The process of establishing a cooperative commences with the founding meeting attended by the founders, where key matters such as the cooperative's objectives, the drafting of the Articles of

³ *Ibid*, hlm. 210

Association, and the election of management and supervisory boards are discussed. Subsequently, a notary prepares and authenticates the deed of establishment, which comprehensively incorporates the Articles of Association. This deed is then submitted online via the General Law Administration System (AHU) to the Minister of Law and Human Rights for approval as a legal entity. With this approval, the cooperative officially acquires legal entity status, enabling it to conduct its business activities in accordance with applicable regulations. This stage provides a robust legal foundation, ensuring the cooperative operates lawfully while upholding the principles of collectivity and solidarity inherent to cooperatives.⁴

Once all requirements are fulfilled and verification yields satisfactory results, the government through the authorized official will grant legal entity status to the cooperative. This approval not only serves as proof of the cooperative's legality but also provides legal certainty, enabling lawful operations and business activities. With official legal entity status, the cooperative can engage in various business endeavors, forge partnerships with other parties, and receive legal protections for its operations.

The process of approval and establishment of cooperatives promotes transparency and accountability within the organization,

⁴ Lex Mundus, "Syarat dan Prosedur Pendirian Koperasi", diakses tanggal 18 November 2025, dari <https://lexmundus.com/syarat-dan-prosedur-pendirian-koperasi>.

thereby enabling cooperative governance to be answerable to both members and external stakeholders. Consequently, it is unsurprising that the establishment process is conducted in a gradual and systematic manner, encompassing stages from conceptual formation, member preparation, preparation of legal documents, administrative registration, to the final legal entity approval as the culminating legitimate step.

Following validation, cooperatives are also required to fulfill ongoing administrative obligations, such as submitting annual reports and complying with applicable tax requirements for business entities. These measures ensure that cooperatives operate as professional economic actors, thereby maximizing their contributions to the national economy.

2. Challenges in the Ratification of Cooperatives' Legal Entity Status

Although the legal procedures for establishing cooperatives are clearly regulated by legislation, prospective founders often face significant practical challenges and administrative obstacles that can delay or even impede the attainment of official legal entity ratification. These challenges encompass the complexity of documentary requirements, limited legal understanding among prospective administrators, and technical issues in data integration across relevant institutions. Consequently, the well-intentioned

pursuit of legitimate legal entity status is frequently hindered by convoluted and intricate processes.

The primary constraint faced by Indonesian cooperatives at present is the low quality of human resources, which hampers their capacity to access markets, capital, management expertise, technology, and business networks. Enhancing human resource capabilities and improving organizational structures will foster cooperative development and bolster public trust, which is essential for their sustainability. Consequently, cooperatives must strengthen their competencies to function as robust, independent, self-managing economic entities that play a pivotal role in national economic development while serving as vital instruments for poverty alleviation and enhancing public welfare based on familial principles.⁵

The second constraint in establishing cooperative business entities is the limited knowledge and understanding of relevant legal aspects among administrators, who often perceive legality as a complex and costly process. The scarcity of human resources and technical support exacerbates this challenge. Therefore, systematic efforts are required to enhance administrators' capacities, one of which involves legal counseling programs. This community service

⁵ Suparji, Transformasi Badan Hukum di Indonesia, Fakultas Hukum Universitas Al Azhar Indonesia, 2014 hlm. 31. https://repository.uai.ac.id/wp-content/uploads/2020/08/TRANSFORMASI-BADAN-HUKUM-DI-INDONESIA_April-2015_SA.pdf

initiative aims to provide theoretical understanding and practical skills regarding the legal foundations of cooperatives, formation processes, and administrative and technical requirements. The counseling is conducted participatively through various methods such as lectures and simulations, with the objective of fostering awareness and commitment among administrators.⁶

The new cooperative regulations entail five significant implications. First, the affirmative affirmation of legal entity status equates cooperatives with limited liability companies, thereby clarifying their legality in transactions. Second, restricting savings and loan services to members only, although intended to protect against irrational investments, poses a major challenge by impeding adequate capital accumulation necessary for cooperative growth. Third, the obligation to spin off savings and loan units into independent legal entity Credit Union Savings and Loans (KSP) within three years as a prerequisite for inclusion in the LPS KSP scheme risks triggering a "mass death" of small cooperatives due to capital constraints and high administrative costs. Fourth, stringent nomenclature rules compel changes to popular names and limit cooperative types to four categories, potentially stifling diverse business opportunities. Fifth, replacing traditional deposit terminology with "share capital" and "cooperative capital

⁶ Listianti, Y. (2024). Penyuluhan Hukum Bagi Pengurus Koperasi Hikmah Berkah Silaturahmi Tentang Pembentukan Badan Usaha. *PADMA*, 4(2), hlm.664 -665 <https://journal.piksi.ac.id/index.php/Padma/article/view/1592>

certificates," where share capital is non-withdrawable, generates confusion and necessitates in-depth explanations of implementation.⁷

he government has endeavored to strengthen and ensure legal certainty for cooperative business actors as the cornerstone of Indonesia's economy. This initiative was realized through the signing of a Memorandum of Understanding (MoU) between the Ministry of Cooperatives and Small and Medium Enterprises and the Indonesian Notary Association (INI) on May 4, 2004. This agreement was subsequently followed by the issuance of Ministerial Decree No. 98/KEP/M.KUKM/IX/2004 concerning Notaries as Cooperative Deed Makers (PPAK). The decree aims to enhance the quality of legal services, particularly in the processes of establishment, amendment of articles of association, and related cooperative activity deeds, by mandating the use of authentic deeds to guarantee legal certainty.⁸

The establishment of cooperatives in Indonesia must fulfill both substantive and administrative requirements as mandated by Law No. 25 of 1992 on Cooperatives.⁹ The legally valid establishment

⁷ Raharja, Sam'un Jaja. Prospek dan Tantangan Pengembangan Koperasi di Indonesia Pasca Undang-Undang Nomor 17 Tahun 2012 tentang Perkoperasian. *Jurnal Administrasi Bisnis*, Vol 9 No 2, 2013, hlm. 125 <https://journal.unpar.ac.id/index.php/JurnalAdministrasiBisnis/article/download/1209/1182>

⁸ Permana, I. G. A. opcit. hlm. 588

⁹ Geby Sormin, Imelda Felia, Toman Sony Tambunan, 2025. Tinjauan Hukum Peran Dan Tanggungjawab Ketua Pengurus Atas Pendirian Koperasi, *Journal of Multidisciplinary Research and Innovation (JMRI)*, Vol. 3 No. 1, hlm. 71 <https://journal.lrpsu.or.id/index.php/jmri/article/view/95>

process encompasses critical stages, beginning with formation by at least 20 individuals, drafting of the articles of association, and culminating in the ratification of legal entity status by the relevant ministry. In daily operations, the Cooperative Executive Chair holds a central role and bears full responsibility for implementing decisions from member meetings, managing finances, and ensuring adherence to applicable cooperative principles and legal provisions. Given this strategic role, the Executive Chair may be held accountable civilly, criminally, or administratively for violations, abuse of authority, or negligence that harms the cooperative or its members. Therefore, a comprehensive understanding of authority and legal responsibilities is essential for all administrators, particularly the Executive Chair, to ensure sound, transparent, and accountable cooperative governance.¹⁰

Cooperatives must possess a unique (non-duplicated) name that is registered and consistent between the Legal Entity Administration System (SABH) and the cooperative deed. This compliance is emphasized by Article 4 paragraph (2) of Minister of Law and Human Rights Regulation No. 13 of 2025 on Cooperative Ratification, which aims to provide a specific official identity and prevent misuse of cooperative names. Although regulations have meticulously governed name registration, regrettably, no clear legal mechanism exists for correcting or rectifying duplicated or

¹⁰ *Ibid*, hlm. 71.

erroneous names, rendering such issues difficult to address effectively.¹¹

The role of notaries in cooperatives extends beyond mere deed preparation to encompass providing advice and explanations to founders regarding the future direction of cooperative development. Notaries are expected to draft comprehensive cooperative establishment deeds, thereby offering clear guidance to members in building their cooperatives. Consequently, authentic deeds prepared by notaries can contribute positively to cooperative growth and development, provided that notaries possess a thorough understanding of the essence and characteristics of cooperatives through adequate training.¹²

Excessive government intervention, although intended to provide support, often creates dependency and undermines cooperative autonomy. To address this issue, cooperatives must strengthen their independence, enhance member participation, and reduce reliance on external assistance. Through more professional business approaches, improved efficiency, and self-reliant management, cooperatives can evolve into resilient economic forces. Additionally, enhanced public socialization is crucial for increasing

¹¹ Faradina, F. (2025). Paradigma Mazhab Positivisme Hukum Terhadap Ketidaksesuaian Nama Koperasi Dalam Sistem Administrasi Badan Hukum (Sabh) Kementerian Hukum Dengan Akta Koperasi. *Desiderata Law Review*, 2(1), Hlm. 8 <https://journal.uir.ac.id/index.php/dlr/article/view/22509>

¹² Permana, I. G. A. opcit. hlm. 589

participation and dispelling negative perceptions, thereby enabling cooperatives to become stronger and more effective institutions.¹³

C. Conclusion

The procedures for establishing cooperatives and the challenges in obtaining legal entity ratification indicate that successful cooperative formation depends not only on compliance with formal procedures but also on founders' thorough comprehension of cooperatives' institutional characteristics as socio-economic entities. This study introduces a fresh perspective, positing that regulatory effectiveness resides not merely in the comprehensiveness of legal norms but in their operationalization by the community as the principal actors in the cooperative movement. By emphasizing practical dimensions such as human resource capacity, technical knowledge, and the necessity for legal guidance, this analysis affirms that fortifying cooperatives demands concurrent normative and educational strategies.

These findings also affirm that the role of professional actors such as notaries, along with government administrative support, makes a strategic contribution to bridging the gap between regulation and field implementation. Thus, this research provides an academic foundation that modern cooperative development must be directed

¹³ Sabila, S. V., & Toruan, V. G. L. (2024). Koperasi Dalam Perspektif Hukum Strategi Peningkatan Ekonomi Masyarakat di Era Globalisasi. *Media Hukum Indonesia (MHI)*, 2(4).hlm. 315 <https://ojs.daarulhuda.or.id/index.php/MHI/article/view/883>

toward improving governance, enhancing legal literacy, and simplifying institutional processes to strengthen the sustainability of cooperatives as pillars of the people's economy. The overall research results underscore the urgency of institutional reform and assistance as keys to reinforcing the existence of cooperatives and their impact on national economic strengthening.

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