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The Obligations for Consularization and Legalization of Credit Guarantee Documents Signed in Singapore based on the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs (Case Study of PT X Guarantee Document at Bank Y)

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ABSTRACT

In its implementation, the provision of bank credit cannot be separated from the guarantee provided by the debtor. One type of guarantee that is generally given in the implementation of lending is in the form of a cash guarantee in the guarantor's account which is tied to a pawn account and the signing of an account pawn agreement between the guarantor and the Bank, however, it is not uncommon to find situations where the guarantor will sign the agreement. This pawn is not in Indonesia. Upon the signing of this document abroad, Minister of Foreign Affairs Regulation No. 13/2019 requires the legalization and consularization of these documents, however, with the ratification of the Apostille provisions, there is a view that foreign documents do not need to go through the legalization and consularization process. Therefore, a study was conducted to determine how the validity of foreign documents in the process of granting credit did not go through the consularization and legalization process, and how the consularization and legalization obligations were with the ratification of the apostille convention. This research is a normative juridical research with analytical descriptive typology. The legal materials used are primary and secondary legal materials to be analyzed by qualitative methods. Based on this research, it can be said that the implementation of consularization and legalization of documents in Indonesia does not have a direct sanction and has no effect on the document. And with the ratification of the apostile convention, legalization and consularization of foreign documents is no longer required, however, for documents directly related to commercial activities, consularization and legalization are still mandatory.

ABSTRAK

Dalam pelaksanaanya, pemberian kredit perbankan tidak lepas dari adanya jaminan yang diberikan oleh Debitur. Salah satu jenis penjaminan yang umum diberikan dalam pelaksanaan pemberian kredit adalah berupa jaminan tunai dalam rekening pemberi jaminan yang diikat dengan gadai rekening dan penandatanganan perjanjian gadai rekening yang antara pemberi jaminan dengan Bank, namun demikian, tidak jarang ditemui adanya keadaan dimana penjamin yang akan menandatangani perjanjian gadai ini tidak berada di Indonesia. Atas penandatanganan dokumen di luar negeri ini, Peraturan Menteri Luar Negeri No. 13/2019 mewajibkan untuk melegalisasi dan konsularisasi dokumen tersebut, namun demikian dengan adanya ratifikasi ketentuan Apostille, maka terdapat pandangan yang mengatakan bahwa dokumen luar negeri tidak perlu untuk melalui proses legalisasi dan konsularisasi. Oleh karena itu, dilakukan penelitian untuk menentukan bagaimanakan keabsahan dokumen luar negeri dalam proses pemberian kredit yang tidak melalui proses konsularisasi dan legalisasi, dan bagaimanakan kewajiban konsularisasi dan legalisasi dengan adanya ratifikasi konvensi apostille. Penelitian ini merupakan penelitian yuridis normative dengan tipologi deskriptif analitis. Bahan hukum yang digunakan adalah bahan hukum primer dan sekunder untuk dianalisis dengan metode kualitatif. Atas penelitian tersebut, dapat dikatakan bahwa pelaksanaan konsularisasi dan legalisasi dokumen di Indonesia tidak memiliki sanksi secara langsung dan tidak memberikan efek terhadap dokumen tersebut. Serta dengan adanya ratifikasi konvensi aposttile, legalisasi dan konsularisasi terhadap dokumen

luar negeri tidak diwajibkan lagi, namun demikian terhadap dokumen yang berkaitan langsung dengan kegiatan komersial tetap wajib untuk dilakukan konsularisasi dan legalisasi.

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I. INTRODUCTION

Referring to the provisions of the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs ("Regulation of the Minister of Foreign Affairs No. 13/2019") a company document that is included in the category of foreign documents is required to go through a process of consularization and legalization to be used in Indonesia. A company in general requires the existence of a banking institution to obtain a loan in the implementation of its business activities. The banking sector is one of the important sectors in the Indonesian economy. A company in general requires the existence of a banking institution to obtain a loan in the implementation of its business activities. The banking sector is one of the important sectors in the Indonesian economy. As is known that the bank has a function as a financial intermediary that carries out its main business to collect and distribute public funds or transfer public funds from depositors to borrowers. (Usman, 2003) Banking activities themselves in Indonesia are regulated in Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998 ("Law No. 7/1992"). The provisions in Law No. 7/1992 itself define banking as everything related to banks, which includes institutions, business activities, as well as ways and processes in carrying out their business activities. (Law Number 7 of 1992 concerning Banking, n.d.)

To achieve the goals and functions of banks in the state economic sector, banks themselves are required to be able to provide certainty and protection for the depositor, where the depositor's funds are collected and then distributed to the borrower. (Usman, 2003) Thus, to achieve this goal, the banking institution, in this case the Bank, provides a credit loan based on a credit agreement signed by the borrower, namely the debtor and the Bank as the party providing the loan or referred to as the creditor. In providing such a credit facility, it is common for a debtor to submit a guarantee that will guarantee the repayment of the credit facility. The provision of guarantees for credit facilities is the main element to guarantee the interests of the Bank as stipulated in the provisions of Law Number 7 of 1992 concerning Banking as amended by Law Number 10 of 1998 ("Banking Law").

> As mentioned in the Explanation of Article 8 of the Banking Law that:
> "The credit provided by the bank contains risks, so in its implementation the bank must pay attention to the principles of sound credit. To reduce such risks, the guarantee of credit purchases in the sense of confidence in the ability and ability of the debtor to pay off his debts as promised is an important factor that must be considered by the bank."

Self-guarantee can be interpreted as something given to the creditor in order to give rise to the belief that the debtor will fulfill his obligations that can be assessed with money, arising from an agreement. (Hadisoeprapto, 1984) Article 11 of the Banking Law specifies that the provision of guarantees in the implementation of credit provision is regulated by Bank Indonesia. (Law Number 7 of 1992 concerning Banking, n.d.) Further provisions for guarantees are regulated in the Decree of the Board of Directors of Bank Indonesia Number 23/69/KEP/DIR of 1991 concerning Credit Guarantees (Decree of the Board of Directors of BI No. 23 of 1991"). Referring to the provisions of Article 1 letter b of the Decree of the Board of Directors of BI No. 23 of 1991, it is determined that the guarantee of credit provision is the bank's confidence in the debtor's ability to pay off the credit in accordance with the promised. Meanwhile, Article 1 letter c of the Decree of the Board of Directors of BI No. 23 of 1991 stipulates that: "Collateral is a material guarantee, securities, risk insurance provided by the debtor to cover the repayment of one credit, if the debtor is unable to pay off the credit as promised."

Referring to these provisions, it is reasonable in the implementation of the provision of credit facilities that there are guarantees provided by debtors to creditors. This collateral item will later be taken over by the creditor in the event that the debtor defaults on his obligation to repay the credit facility he owns. Therefore, a collateral item must have an element of (i) economic value; and (ii) transferable. In the implementation of credit provision, there are many circumstances faced by debtors and creditors. Whether it's an issue that arises from the side of the bank, the borrower, or the guarantee itself.

One of these issues is the existence of a signatory party from debtors who are not in Indonesia. As we know, in this era of globalization, it is not impossible for a company administrator to do its management remotely. Moreover, there are also circumstances where a company with foreign investment status ("PMA") has a complicated management structure compared to domestic investment companies ("PMDN") in general. This is strengthened by the state of Coronavirus Disease 2019 ("Covid-19") which makes both administrators and owners of guarantees unable to mobilize like before Covid-19 became a pandemic throughout the country.

Under these circumstances, it is undeniable that the signing of either a credit agreement or any other document is carried out in a circular manner to the signatory party residing abroad. The implementation of the circularization of the document to be signed is directly related to the provisions regulated in the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs ("Regulation of the Minister of Foreign Affairs No. 13 of 2019"). In this regulation of the Minister of Foreign Affairs, it is regulated that: (Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs, n.d.) Legalization is carried out on the docume consisting of: Documents issued in the territory of Indonesia, and to be used outside the territory of Indonesia; Documents issued outside the territory of Indonesia or issued by representatives of foreign countries domiciled in the territory of Indonesia, and will be used in the territory of Indonesia; or Documents issued by representatives of foreign countries domiciled in the territory of Indonesia, and will be used outside the territory of Indonesia.

Based on these provisions, it can be said that documents issued outside the territory of Indonesia, are documents signed by signatories outside the territory of Indonesia. It is not directly related to the case of the position in this journal, but there are other provisions that also regulate this. Number 79 letter b annex to the Regulation of the Minister of Foreign Affairs Number 3 of 2019 concerning

General Guidelines for Foreign Relations by Local Governments ("Permenlu 3/2019") states: (Annex to the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 3 of 2019 concerning General Guidelines for Foreign Relations by Local Governments, n.d.)

In the event that the legalization of the document is required, the procedure carried out is as follows: For documents issued abroad and to be used in Indonesia, legalization is carried out by the foreign authority authorized where the document was issued, the representative of the Republic of Indonesia in the country where the document was issued or the representative of the Republic of Indonesia who concurrently accredits, and if necessary, the Ministry of Foreign Affairs.

The condition as previously described had occurred in the implementation of the signing of a guarantee agreement in the form of a pledge agreement between Bank Y and PT X. Where PT X, which requires additional funds to carry out its business activities, lends credit to Bank Y. Upon the loan, a credit agreement is made between PT X and Bank Y signed by both parties. For the provision of the credit facility, in line with the provisions of Bank Indonesia and the Banking Law, PT X provides a guarantee in the form of a certain amount of money in the account owned by the director of PT X which is pledged by a Pawn Account.

Furthermore, for the implementation of this account lien, an account pledge agreement was made signed by Mr. Z as the lien giver as well as one of the parties who served as director of PT X. However, because Mr. Z was not the president director of PT X, Mr. Z at the time of the credit binding was in Singapore. At that time, both Singapore and Indonesia were in the implementation of strict Large-Scale Social Restrictions ("PSBB") so that Mr. Z could not come to sign the account pledge agreement. At first Mr. Z's document was signed independently and then sent to Bank Y.

However, the bank requested the fulfillment of the consularization and documentation of the pledge agreement. Therefore the signing of the account pledge agreement was repeated and carried out in a circular manner to Mr Z who was then in Singapore. With the request of Bank Y, the foreign documents are signed by the debtor in accordance with the Regulation of the Minister of Foreign Affairs No. 13/2019 and in accordance with the provisions of the Embassy of the Republic of Indonesia ("KBRI") in Singapore. With this process, the provision of account liens by the debtor is followed and not at the same time as the implementation of the credit binding.

Meanwhile, on January 4, 2021, new provisions were established, namely Presidential Regulation Number 2 of 2021 concerning Ratification of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents ("Presidential Regulation Number 2 of 2021"). The provisions of Article 1 of Presidential Regulation Number 2 of 2021 stipulate that: (Presidential Regulation Number 2 of 2021 concerning Ratification of the Convention Abolishing The Requirement Of Legalisation For Foreign Public Documents (Convention on the Elimination of Legalization Requirements for Foreign Public Documents), n.d.)

> "Ratified the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, which was adopted at The Hague Conference on Private International Law on 5 October 1961 in The Hague Conference on Private International Law on 5 October 1961 in The Hague, Netherlands, with a Declaration to Article 1 on the scope of public documents."

So based on these two basic provisions, the question arises related to (i) What is the validity of an overseas document in the process of granting credit that does not go through the process of consularization and legalization? and (ii) How to negotiate and legalize external documents in the provision of credit with the ratification of Presidential Regulation No. 2 of 2021. On the basis of both questions, the author chooses a topic. Obligation to Consularize and Legalize Credit Guarantee

Documents Signed in Singapore based on the Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs (Case Study of PT X Guarantee Documents at Bank Y) as the theme of writing this law.

II. RESEARCH METHODS

The research method used in this study is normative juridical, where this research is carried out based on the main legal materials by studying the theories, concepts and principles of law and legislation used and directly related to this research topic. This research is intended to find out the principles of law, and the existing legal provisions which are then connected with this research topic. This research begins with a search of legal materials as a basis for making a legal decision on the position of the case in this study. (Jonaedi Efendi; Johnny Ibrahim, 2018) In this normative research, the approach used is the legislation approach, where the research is focused on tracing the provisions of existing laws and regulations and how they are applied in everyday life. (Jonaedi Efendi; Johnny Ibrahim, 2018).

In this study, the research typology used was descriptive analytical. Analytical descriptive research is intended to describe and analyze the problems in this study. The data used in this study is secondary data, where the study of documents and library materials was carried out in this study. The legal materials used are obtained by studying literature studies and written data. The legal materials used are primary legal materials in the form of laws and regulations, decisions and agreements. (Soekanto, 2019) After these data are collected, alanisis is carried out using a qualitative analysis method to then be poured in descriptive writing. For this study, the conclusions on the subject matter will be written in the form of perspective-analytical.

III. RESULTS AND DISCUSSION

1. Validity of An Overseas Document In The Process Of Granting Credit That Does Not Go Through The Process Of Consularization And Legalization

Banking is one of the main sectors in a country's economy. One of the business activities carried out in the banking sector is the provision of credit. (M. Bahsan, 2007) Crediting is the provision of money loans by banks which are generally accompanied by the delivery of credit guarantees by borrowers. As is known that the bank has a function as a financial intermediary that carries out its main business to collect and distribute public funds or transfer public funds from depositors to borrowers. (Usman, 2003) The provisions in the Banking Law itself define banking as everything that concerns banks, which includes institutions, business activities, and ways and processes in carrying out their business activities. (Law Number 7 of 1992 concerning Banking, n.d.) Meanwhile, the Bank itself is defined as a business entity that collects funds from the public in the form of deposits, and distributes them to the community in order to improve the living standards of many people. (Law Number 7 of 1992 concerning Banking, n.d.).

In the formulation of this understanding, it can be concluded that credit is one of the bank's business activities in order to distribute its funds to the public. (M. Bahsan, 2007) Credit itself is defined as:

> “Credit is the provision of money or bills that can be equated with it, based on a loan agreement or agreement between the bank and another party that obliges the borrowing party to pay off its

debt after a certain period of time with the amount of interest, remuneration or distribution of profits;"

To achieve the goals and functions of the bank, banks are required to be able to provide certainty and protection for the depositor, where the depositor's funds are collected and then distributed to the borrower. To ensure protection to the depositor, in the implementation of its business, banks are required to carry out the principle of prudence or better known as the principle of prudential banking. (Law Number 7 of 1992 concerning Banking, n.d.) The Bank as an institution based on the principle of prudence or the principle of prudential banking. The principle of prudential banking itself is regulated in Article 2 of Law No. 7/1992 which states that the implementation of Indonesia's banking business is based on economic democracy using the principle of prudence. (Law Number 7 of 1992 concerning Banking, n.d.) In addition, the application of the Prudential Banking principle is also reaffirmed in the provisions of Article 29 paragraph (2) of Law No. 7/1992 which states that:

"Banks are required to maintain the level of bank health in accordance with the provisions of capital adequacy, asset quality, management quality, liquidity, rentability, solvency, and other aspects related to the bank's business, and are obliged to carry out business activities in accordance with the principle of prudence."

With the obligation for banks to apply this prudential banking principle, banks are required to always be careful and consistent in carrying out laws and regulations in carrying out their business based on professionalism and good faith. (Hermansyah, 2005) Hermansyah, S.H., M.Hum in his book Indonesian National Banking Law stated that with the provisions of the prudential baking principle in the law governing banking, there is no reason whatsoever for the bank not to apply the principle of prudence in all business activities it carries out. (Hermansyah, 2005) This statement can be interpreted to mean that all activities and policies made in order to carry out banking business activities must be based on applicable laws and regulations so that the policies and activities carried out can be legally accounted for.

As explained above, bawha bank as one of the pillars of economic implementation must be managed based on the principle of prudential banking which will not be separated from the provisions of laws and regulations. (M. Bahsan, 2007) This also applies to the credit guarantee provided by the borrower to the bank. The credit guarantee provided must be believed to be a valuable guarantee, and comply with the provisions of applicable laws and regulations in order to fulfill its function of protecting the interests of the bank in the event that the borrower is unable to fulfill the obligation to repay the credit facility he received.

M. Bahsan in his book "Hukum Jaminan dan Jaminan Kredit Banking Indonesia" explained that banking credit has several functions, including (i) as a security for credit repayment, (ii) credit guarantee as a motivation for debtors to carry out their payment obligations, and (iii) as an implementation of banking regulations. (M. Bahsan, 2007) For this reason, a credit guarantee must be ensured to be a credit guarantee that is able to fulfill these three functions.

One way for a credit guarantee to function as it should is to ensure that the guarantee meets the applicable legal provisions. Some of the legal assessments of credit guarantees include:(M. Bahsan, 2007)

i. Legality of Credit Guarantee Objects

The object of credit guarantee can be movable goods, immovable goods and movable goods or debt insurers. Each of these objects of guarantee has its own legal provisions governing

it. For this reason, it is necessary to ascertain whether the object of the guarantee is in accordance with the provisions of the law applicable to the goods. Validity of the use of the Credit Guarantee Object

ii. This also needs to be considered, where a credit guarantee can be owned by the borrower, or someone else. Credit guarantees must also be ensured to be free from other guarantees so that there is no overlapping of collateral binding. It is excluded for land-form collateral objects, since land guarantees are possible to be tied with more than one credit binding rating. If the credit guarantee belongs to someone else, it is necessary to ascertain whether its use as collateral gets a definite and clear approval from the owner of the collateral item.

iii. Use of Valid Documents

For some types of credit guarantees that have ownership documentation, it is also necessary to ensure that the collateralized goods are valid based on laws and regulations.

iv. Disputes attached to credit guarantees

The lender will certainly not want to accept a credit guarantee item in dispute. For this reason, it is necessary to ascertain whether there is an ongoing dispute over the collateral item.

v. Binding of credit guarantees

This is the subject matter in this legal paper, where a credit guarantee must be bound in accordance with the provisions of the applicable laws and regulations.

A credit guarantee submitted by the debtor to the Bank must be bound by the binding of a credit guarantee that corresponds to the object of the collateral. In the context of case studies in this legal paper, the object of the collateral is a movable object in the form of money that is in the guarantor's account at the lender's bank. For this reason, the amount of money in the guarantor account is guaranteed using the binding of the Current Account Saving Account ("CASA") Pledge which is carried out under the hand. This account pawn agreement is an accessoir agreement that complements the main agreement in the form of a Credit Agreement signed by representatives of PT X and representatives of Bank Y. Zaeni Asyhadie and Rahma Kusumawati in their book entitled guarantee law in Indonesia Studies Based on National Law and Sharia Economic Principles explained that lien or pandrecht is one of the material rights that provide guarantees regulated in Book II of the Civil Code ("Civil Code"). (H. Zaeni Asyhadie; et.al, 2018) Meanwhile, according to Subekti in his book The Principles of Civil Law, liens are: (Subekti, 1996).

> "A treasury right to a movable item belonging to another person, which is solely promised to give up a bezit over a movable object, aims to take the repayment of an item from the income of the sale of that thing ahead of other collectors."

On the lien, a lien agreement was binding. Likewise with the guarantee of a certain amount of money in the guarantor account in the case study of PT X and Bank Y. It can be said that the binding of the lien, the existence of a principal agreement in the form of a credit agreement, and the party who signed the binding of the lien agreement has fulfilled the element of legality in the applicable laws and regulations.

However, there is another element that needs further research, namely the process of binding a lien or signing a lien agreement is carried out abroad. For this reason, there are laws and regulations that regulate this matter where, Permenlu No.3/2019 stipulates that legalization is carried out by officials appointed by the directorate of the ministry of foreign affairs for documents consisting of:

(Regulation of the Minister of Foreign Affairs of the Republic of Indonesia Number 13 of 2019 concerning Procedures for Legalization of Documents at the Ministry of Foreign Affairs, n.d.)

a. Documents issued in the territory of Indonesia, and will be used outside the territory of Indonesia;
b. Documents issued outside the territory of Indonesia or issued by representatives of foreign countries domiciled in the territory of Indonesia, and will be used in the territory of Indonesia; or
c. Documents issued by representatives of foreign countries domiciled in the territory of Indonesia, and will be used outside the territory of Indonesia.

Based on these provisions, the binding of the Pledge Agreement on the guarantee of a certain amount of money in the account belonging to the guarantor, where the guarantor is located in Singapore is included in the category of documents issued outside the territory of Indonesia and will be used in Indonesia. With the signing of the account pledge agreement by Mr Z in singapore, it is mandatory to comply with the provisions of Permenlu No.3/2019 to go through the legalization and consularization process. This is in line with the Yusirprudensi of the Supreme Court Decision of the R.I. dated September 18, 1986 Number: 3038 K/Pdt/1981 ("Supreme Court Decision No. 3938/1986"). In Supreme Court Decision No. 3938/1986, the document that is the object of the decision is a power of attorney signed outside the territory of Indonesia. Referring to the decision, it is stated that the validity of a power of attorney made abroad in addition to having to meet the formal requirements must also be legalized first by the local Indonesian Embassy. (Supreme Court of the Republic of Indonesia, Decision No. 3038 K/Pdt/1981, n.d.).

Another ruling that became a judicial review related to the fulfillment of the requirements for legalization and consularization of foreign documents was the Decision of the Surabaya High Religious Court No. 60/Pdt.G/2008/PTA. Sby. The judgment of the high court of religion also states that:(The Judgment of the High Court of Religion No. 60/Rev.G/2008/PTA. Sby, n.d.) "For the validity of power of attorney made abroad plus the requirements, namely the legalization of the Indonesian Embassy. It does not matter whether the power of attorney is in the form of underhand or authentic, it must be legalized by the Indonesian Embassy. This requirement aims to provide the Court with legal certainty about the correctness of the creation of a power of attorney in the country concerned. With the legalization there is no longer any doubt over the granting of power of attorney to the power of attorney."

Thus, the obligation to consularize and legalize foreign documents has been recognized and it is an obligation to ensure that the foreign documents are valid and can be used in the territory of Indonesia. The provisions for the implementation of the consulrasization and legalization of foreign documents are carried out by procedures as stipulated in Permenlu No. 13/2019. However, considering that the signing of this account pledge agreement is carried out in Singapore, it is also necessary to look at the provisions as stipulated in the page of the Indonesian Embassy in Idi Singapore. Referring to the page of the Indonesian Embassy in Singapore related to the legalization of documents, it is stated that the types of documents that can be legalized by the Indonesian Embassy in Singapore are: (Embassy of the Republic of Indonesia Singapore, n.d.) legalization of translations of documents published in Indonesia; legalization of power of attorney /letter of approval / other individual documents to be used in Indonesia; legalization of company documents and documents belonging to foreign nationals to be used in Indonesia.

Referring to these qualifications, pt X's guarantee documents are included in the company documents that will be used in Indonesia. Based on these qualifications, it must be legalized at the Indonesian Embassy in Singapore by referring to the provisions of the legislation and also referring to the provisions of the Indonesian Embassy in Singapore. The provisions on the website page of the

Indonesian Embassy stipulate that company documents that are issued in Singapore and want to be used within the territory of the Republic of Indonesia, must go through procedures through a public notary and singapore academic of law and Indonesian representatives in the local country. (Embassy of the Republic of Indonesia Singapore, n.d.) This provision is based on the Circular Letter of the Ministry of Foreign Affairs of Singapore No. MFA/CON/00896/2020 dated 23 November 2020 which stipulates that since January 20, 2021, the legalization of business documents has only been legalized by the Singapore Academic of Law. For this reason, it can be concluded that the stages of implementing the consularization and legalization of foreign documents to be used in Indonesia are: The application from the applicant is accompanied by the fulfillment of the required documents by the Indonesian Embassy in Singapore; Legalization by the competent agencies in Singapore, namely the Singapore Public Notary and the Singapore Academic of Law*;* Application for legalization and consularization to the Indonesian Embassy in Singapore.

Thus, referring to these provisions, it can be concluded that the implementation of legalization of documents signed abroad, more especially for documents signed in Singapore, has clear provisions and arrangements. Therefore, to ensure that the binding of credit guarantees has been carried out in accordance with applicable provisions to ensure the validity of the credit guarantee, a document that is included in the category of foreign documents is obliged to go through the legalization and consularization process as regulated in Permenlu No.13/2019 and the provisions of the local Indonesian Embassy.

As for PT X's credit guarantee in the form of a CASA Account Pawn to guarantee PT X's credit facility provided by Bank Y, it was initially signed by the debtor without going through the legalization process and document consularization. However, the bank requires the fulfillment of the process. This is mandatory considering that the guarantor or Mr. Z signed the CASA account pledge agreement document in Singapore. Meanwhile, the CASA account pledge agreement document will be used by Bank Y which is an Indonesian legal entity, which is domiciled in Indonesia and carries out its business activities in Indonesia.

Moreover, in the event that PT X is unable to fulfill the obligation to repay the credit facility that has been given to it, then on the guarantee in the form of a certain amount of money in the guarantor's account at the bank, the execution of the guarantee will be carried out which is carried out in Indonesia. For this reason, ensuring the validity and legality of the credit guarantee, a guarantee agreement categorized as an overseas document, is obliged to go through the process of consularization and legalization.

Based on the explanation above, it can be concluded that basically, the implementation of consularization and legalization is regulated and required based on the provisions of Permenlu No.13/2019. However, in Permenlu No.13/2019, it is not clearly regulated in relation to the sanctions given in the event of non-fulfillment of these provisions. Based on this, it can be said that directly, the non-conduct of consularization and legalization does not have any effect on the validity of the document. However, demkian as stated that the implementation of consularization and legalization is carried out for documents to be used in Indonesia. For collateral documents in the form of account liens, it is a document that will be used in the event of a default that causes bad credit given. So in the case of bad debts, then the effect of the absence of the fulfillment of the new consularization and legalization will be felt by the parties. Where in the absence of this fulfillment, the guarantee document cannot be used in Indonesia, or even considered non-existent.

2. Application of Presidential Regulation Number 2 of 2021 to Documents Related to Credit Guarantees

Based on the explanation above, it can be concluded that a foreign document to be used in Indonesia is mandatory to go through a process of consularization and legalization. However, on January 4, 2021, the President of Indonesia issued Presidential Regulation Number 2 of 2021 concerning Ratification of the Convention Abolishing The Requirement Of Legalisation For Foreign Public Documents ("Presidential Regulation No. 2/2021"). This Presidential Regulation essentially ratifies the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents (Convention on the Elimination of Legalization Requirements for Foreign Public Documents), which was adopted at The Hague Conference on Private International Law on 5 October 1961 in The Hague, Netherlands. The background of this convention is the growing connection and relationship between citizens involving a number of public documents between states. (Wisdom, n.d.).

Basically, the purpose of the Convention is to abolish the conditions or obligations of diplomatic and consular legalization of public documents originating from abroad. (Penasthika, 2015) In this convention, it is stipulated that only the state that ratifies it can apply the provisions of this convention. (Gloria, n.d.) The Convention is in force from January 21, 1965 with 120 participating states. (Reza Ria Nanda; Rouli Anita Velentina, 2022) This Convention on the Elimination of Legalization Requirements for Foreign Public Documents provides that for countries participating in the convention, it can abolish the diplomatic or consular legalization requirement of foreign public documents. (The Hague Convention Abolishing The Requirement Of Legalisation For Foreign Public Documents, n.d.) Under this convention, the abolition of the obligation to legalize foreign documents is required to be carried out against public documents used in the territory of the participant's negata and must be produced in the territory of other participating countries. (The Hague Convention Abolishing The Requirement Of Legalisation For Foreign Public Documents, n.d.) What is meant by a public document is:

a. Documents originating from an authority or official relating to a court or tribunal of the State, including those originating from the public prosecutor, clerk of the court or bailiff ("*huissier de justice");*
b. Administrative documents;
c. Documents issued by a notary;
d. An official certificate attached to a document signed by an individual in his civil authority, such as a certificate that records the registration of a document or that records the certain validity period of a document on a certain date and the endorsement of signatures by officials and notaries.

However, there are exceptions to the enactment of this convention, namely that it does not apply to documents signed by diplomatic or consular officials and to administrative documents directly related to commercial or customs activities. For documents that do not require legalization anymore, the way to ensure the validity and restraint of the document is to create an apostille over the document itself. (Wisdom, n.d.) The definition of apostile sandiri is: 1) Authentication of the signature stated on the authenticated document; 2) Authentication of the signatory's personal capacity and stamp (if any); 3) ensuring the source of the country of origin foreign public documents; and 4) Does not guarantee the correctness of the substance of the document being postposted. (Wisdom, n.d.)

The acceptable benefits of ratification of this convention are:

1) He legalization procedure has become simpler because under the Apostille Convention, only one stage will be needed to legalize public documents originating from abroad;

2) As a realization of Indonesia's commitment to continue to encourage the creation of an open and transparent government;
3) Improving the quality of public services by eliminating less efficient bureaucratic procedures; and
4) Encourage an increase in foreign investment due to the ease obtained in the legalization procedure of various public documents needed in the investment realm.

Nevertheless, whether for all the conveniences provided by this convention can be applied to documents directly related to the credit agreement and its collateral documents. Referring to the provisions of Article 1 of the Convention on the Elimination of Legalization Requirements for Foreign Public Documents, the elimination of this legalization obligation does not apply to administrative documents directly related to commercial or customs activities. Based on these provisions, it is stated that documents are directly related to commercial or customs activities. Commercial activities can be interpreted as activities carried out for profit, through the distribution of goods or services, with money.

Referring to these provisions, it can be stated that both credit agreement documents and credit guarantee documents are included in documents directly related to commercial activities. Therefore, documents directly related to the provision of credit facilities including guarantee documents are still mandatory for consularization and legalization even though the ratification of the Convention on the Elimination of Legalization Requirements for Foreign Public Documents has been ratified.

IV. CONCLUSION

There is basically no direct effect on the validity of the agreement in the event that it does not consularize and legalize documents signed abroad. Referring to the provisions of Permenlu No. 13/2019, indeed, consularization and legalization are required to be carried out against documents signed abroad, however, there are no sanctions stipulated in these provisions. The validity of an agreement is based on the fulfillment of the valid conditions of the agreement regulated in the Civil Code. However, with regard to the guarantee document, in the event of a bad credit and the guarantee is intended to be used in Indonesia, then there is a possibility that the guarantee cannot be used in Indonesia on the basis of non-fulfillment of administrative obligations for the foreign document.

With the ratification of the Convention on the Elimination of Legalization Requirements for Foreign Public Documents does not eliminate the obligation to consularize and legalize documents directly related to commercial activities. The lien agreement document signed by the guarantee provider and the bank is included in the document directly related to commercial activities, for that the lien agreement is included in the document that is still required to be consularized and legalized in the event that the document is signed by a party not located in the territory of Indonesia.

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