

Legal Liability By Organs of Social and Humanitarian Foundations Against Misuse of Foundation Funds

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ABSTRACT

Foundation is a legal entity that is functionally a means to carry out social activities which was established with the intention of improving the welfare of others and not for commercial purposes or for profit. A foundation as a legal entity has its own assets that are separate from the assets of its management. The foundation's source of funds can come from donations or donations from third parties or from business activities carried out by the Foundation. Where the wealth is used to carry out its activities, besides that the foundation also requires funds to meet its operational needs for the sustainability of the foundation. However, recently there have been findings related to the organs of social and humanitarian foundations that deviate by misusing the assets of the foundation. This is a result of the lack of public supervision related to the foundation so that there is a deviation from the aims and objectives of the foundation. This study was conducted to find answers to the formulation of the problem regarding the role and authority of the foundation organs and how the legal accountability of the foundation organs for the misuse of foundation funds. The research method used in normative juridical research, the data used is secondary data in the form of primary legal material which comes from Law Number 16 of 2001 concerning the Jo Foundation. Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations. and secondary legal materials related to this research. The results of this study are to find out related to the duties, functions and authorities of foundation organs in accordance with the Foundation Law and also how the legal accountability of foundation organs for misuse of foundation funds.

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PRELIMINARY

Foundation is a legal entity that is functionally a means to carry out social activities. The foundation itself is usually established from the start, not for profit or commercial purposes, but the purpose of establishing a foundation is to help improve the welfare of others.

Judging from the history of its establishment, the establishment of foundations in Indonesia is only based on social customs and the jurisprudence of the Supreme Court, because there is no law related to foundations that regulate it. In connection with this,

various problems arise regarding the activities of the foundation that are not following the aims and objectives of the foundation's by-laws, problems and disputes between the management and the founders or related to the responsibilities of other parties, and third parties, and the misuse of foundation funds by the founders or the other party. The various problems that arise cannot be resolved through legal channels because there is no law related to foundations. To guarantee legal certainty, Law on Foundations Number 16 of 2001 was promulgated on August 6, 2001, which was subsequently enacted on October 4, 2004, Law Number 28 of 2004 concerning amendments to Law Number 16 of 2001 concerning Foundations, hereinafter referred to as Foundation Law..¹

According to the Big Indonesian Dictionary (KBBI) Foundation is a legal entity that has no members, is managed by a board, and is established for social purposes (to provide services and assistance such as schools, and hospitals). Apeldoorn said that a foundation (stitching) is a property that has a specific purpose. Paul Scholten gives an understanding of the foundation which is an entity that is born by a unilateral statement and the statement must contain the separation of wealth for a certain purpose with an indication of how the wealth is managed and used.² According to Article 1 Paragraph (1) of the Foundation Law, it is stated that a Foundation is a legal entity consisting of assets separated and intended to achieve certain goals in the social, religious, and humanitarian fields, which has no members.

Foundations have more value when compared to other legal entities, where foundations have activities engaged in social activities such as education, health, and religion which in general have not been carried out by other legal entities.³ Foundations that are often encountered are foundations engaged in education, although foundations in that field still need to improve the flow of foundation programs engaged in education, then there are foundations engaged in health, for example establishing hospitals in certain areas that need hospitals. , then provide medical expenses for certain diseases such as cancer, heart, lung, eye, and others that require no small amount of money. In addition to foundations engaged in education and health, there are foundations engaged in the social sector which usually establish orphanages, care for and educate children with special needs, establish nursing homes, establish rehabilitation centers for people who abuse narcotics, and others.⁴

As a legal entity, a foundation has assets that are separate from the assets of its foundation organs. The source of the foundation's wealth usually comes from donations or donations from third parties or comes from the business activities of the foundation itself. As previously mentioned, foundations are usually not established for profit or commercial purposes, but foundations are established to improve the welfare of other people's lives. Furthermore, in the implementation of activities and financial management of the foundation, the implementation and management are carried out by the management of the foundation as one of the organs within the foundation. Furthermore, in its implementation, the foundation has obligations that must be fulfilled, namely the achievement of accountability and openness which is a condition for the fulfillment of the foundation as a public body with good governance. And all of these responsibilities lie with the board who organizes and manages all the activities and assets of the foundation.⁵

In its position as a legal entity, not all actions of the foundation's organs can be accounted for by the foundation as a legal entity, but there must be an underlying link. For example, if the organ performs the task assigned to it and then the task is found to be against

¹ Shanti Wulandari, "Pertanggungjawaban Organ Yayasan Terhadap Kerugian Bidang Pendidikan Di Indonesia", Jurnal Perspektif Vol. XXI No. 1, Januari 2016. hlm. 71.

² Murni, Abdul Gani, "Tanggung Jawab Hukum Kepada Pengurus Yayasan Terhadap Failednya Suatu Yayasan", Jurnal Pionir LPPM Universitas Asahan Vol. 6, No. 1 Januari 2020. Hlm. 38.

³ Arie Kusumastuti dan Maria Suhardiadi. (2001), *Hukum Yayasan di Indonesia*, Jakarta: Abadi.

⁴ Murni, Abdul Gani *Op.Cit.* hlm. 39.

⁵ T Musahiddinsyah, dkk. "Pengelolaan Yayasan Menurut Asas Keterbukaan Dan Akuntabilitas (Studi Pada Yayasan Kemanusiaan Di Aceh), Jurnal luS Vol 8, No. 1, April 2020. hlm.132.

the law, then the act of the organ is considered an act of the legal entity, and the legal entity must be responsible for the act.⁶

In carrying out its activities, the foundation requires funds to meet its operational needs for the sustainability of the foundation. But in reality, it is prone to be used by foundation management to pursue personal gain. This abuse usually occurs due to a lack of transparency and oversight of the foundation. One example that is currently being discussed is related to the alleged misuse of funds by a foundation operating in the social and humanitarian fields which allegedly used the funds for the personal interests of the foundation's top brass. Because the foundation is a legal entity, the foundation must comply with the Foundation Law, where in the Foundation Law there are rules relating to foundation assets that are prohibited from being distributed in any form. And in carrying out its functions, the foundation must function following the aims and objectives of the foundation itself.

Therefore, based on the description above, the problems obtained are how the role and authority of foundation organs according to the Foundation Law and also how the legal accountability of foundation organs for the misuse of foundation funds. The purpose of this study was to find out related to the role and authority of the foundation organs according to the Foundation Law and also to know about the legal responsibility of the Foundation organs for the misuse of foundation funds.

METHOD

This research method uses normative juridical research methods. Which is the normative juridical method is legal research that examines written law from various aspects, namely aspects of theory, history, philosophy, comparison, structure and composition, scope and material, consistency, general explanation and article by article, formality, and binding power of a law. the law and legal language used but does not examine the applied or implementation aspects.⁷ This study uses secondary data in the form of primary legal materials which come from Law Number 16 of 2001 concerning the Jo Foundation. Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations. and secondary legal materials related to this research.

RESULT AND DISCUSSION

1. Role And Authority In An Organization Of A Foundation According To The Foundation Law

The Foundation's organs according to the Foundation Law consist of the Trustees, Management, and Supervisors. Related to the authority, rights, and obligations of the Foundation's organs must be written in the articles of association of the Foundation and under the Foundation Law. The organ of the foundation itself has a function to carry out the activities of the foundation to achieve the goals of the foundation itself.

In formulating governance, foundations can set principles according to the characteristics, culture, mission, and vision of the foundation concerned. One of the reference principles is abbreviated as Tarif, which is an acronym for transparent, accountable, responsible, independent, and fair. Alternatively, the principles of the foundation could consist of integrity, transparency, accountability, responsibility, independence, and fairness.⁸

The first organ in the foundation is the Trustee, The supervisor is the organ of the foundation that has the highest position and veto power. Referring to article 28 paragraph (1) of the Foundation Law, Trustees is an organ of the Foundation which has the authority which is not delegated to the Management or Supervisor by this Law or the Articles of

⁶ *Ibid.*

⁷ Abdulkadir Muhammad, (2004). *Hukum dan Penelitian Hukum*. Bandung: Pt. Citra Aditya Bakti. hlm. 102.

⁸ Bramantyo Djohanputro, "Pembagian Peran Organ Yayasan", (<https://www.topbusiness.id/59164/pembagian-peran-organ-yayasan.html>) diakses pada tanggal 9 November 2022.

Association. Trustees don't always have to be Foundation Founders. The supervisor himself is appointed through a meeting of the founders or a meeting of the founders of the foundation. Members of the supervisor are prohibited from holding concurrent positions as administrators, and supervisors. The supervisor consists of the founder of the foundation as a person and people who are not the founder of the foundation. There are 5 requirements to become a coach, which are as follows:⁹

- a. Individuals;
- b. Have high dedication;
- c. Appointed based on a meeting of all members of the Management and members of the Supervisory Board;
- d. Not as a Manager or Supervisor;
- e. Members of the Trustees who are Foreign Citizens (WNA), if residing in Indonesia must have a permit to carry out their activities in the territory of Indonesia and have a permit card for temporary residence.

The supervisor has the authority which is stated in Article 28 Paragraph (2) of the Foundation Law whose authorities include:

- a. decisions regarding amendments to the Articles of Association;
- b. appointment and dismissal of members of the Management and members of the Supervisory Board;
- c. determination of the general policy of the Foundation based on the Articles of Association of the Foundation;
- d. ratification of the Foundation's work program and annual budget draft; and
- e. deciding on the merger or dissolution of the Foundation.

Regarding the number of supervisors, it is not regulated by the law. Therefore one foundation can contain only one builder. Furthermore, concerning the existing supervisor's authority, the supervisor can make arbitrary decisions because there is no check and balances mechanism. Then concerning the appointment and dismissal of the board, the coach can exercise his authority based on his view. In Article 32 paragraph (4) of the Foundation Law, it is stated that if the management is deemed to be detrimental to the foundation, based on the decision of the supervisory meeting, the management can be dismissed before the end of his term of office. This is one of the weaknesses that can be exploited to abuse foundation institutions. Ideally, the supervisor consists of five or more members with an odd number and is in the form of a board of directors. This is intended to harmonize with the provisions in Article 30 of the Foundation Law which stipulate that the board of directors meets at least once a year. If the supervisor consists of one person, of course, there is no need for an annual meeting.¹⁰

The coach is the highest organ in the foundation; has powers that are not delegated to the Management and Supervisors. The supervisor has broad authority, including amendments to the articles of association, the appointment and dismissal of both management and supervisory members, the establishment of general policies of the foundation, the ratification of work programs and budgets, and the determination of decisions regarding the merger or dissolution of the foundation. The supervisor as a board of trustees who also holds the role of the governing body has these powers, which can be exercised alone or delegated to the board or supervisor. The main task of the Trustees is to protect the interests of the foundation.¹¹

⁹ Soni Gunawan Somali, "Pengelolaan Yayasan Menurut Undang-Undang No. 28 Tahun 2004 Tentang Yayasan", Jurnal Sosiohumanitas, Vol. XX No. 1, Maret 2018, hlm. 40.

¹⁰ Y. Sogar Simamora, "Karakteristik, Pengelolaan dan Pemeriksaan Badan Hukum Yayasan di Indonesia (Character, Management and Examination on Charity Foundation in Indonesia)", Jurnal Rechtsvinding Media Pembinaan Hukum Nasional, Volume 1 Nomor 2, Agustus 2012, hlm. 181.

¹¹ Bramantyo Djohanputro, "Pembagian Peran Organ Yayasan", (<https://www.topbusiness.id/59164/pembagian-peran-organ-yayasan.html>) diakses pada tanggal 9 November 2022.

The next organ of the foundation is the management, in Article 31 paragraph (1) of the Foundation Law, the management is the organ of the Foundation that carries out the management of the Foundation. The management of the foundation has full responsibility for the management of the foundation to achieve the goals of the foundation itself, besides that the management can also represent the foundation inside and outside the court. The management is not a supervisor or supervisor, this is so that there is no overlap of authority, duties, and responsibilities between supervisors, managers, and supervisors, which can potentially harm the interests of the foundation or other parties. The management is appointed by the supervisor based on the decision of the supervisor's meeting for a term of 5 years and can be re-elected after the end of the first term following the provisions of the Articles of Association. If the board of directors is found to have acted detrimental to the foundation, the board of directors may be dismissed by the supervisor before the end of their term of office.¹²

The management structure of the foundation consists of a chairman, secretary, and treasurer. Related to the rules regarding the composition of the board, appointment, replacement of management, and procedures for dismissal are regulated in the articles of association of the foundation. In carrying out its management, the management can appoint and dismiss the executor of the foundation's activities, in which the provisions regarding the procedure for the appointment and dismissal are further regulated in the foundation's budget.¹³

One of the objectives of the Foundation Law is that the management of foundations is expected to be open and professional. Being open means: a. How to seek funding by creating a business entity, or joining a business entity; b. Method of wealth management, that the assets of the foundation originate from business activities or third-party assistance, and are the property of the foundation and may not be divided or transferred to the builder, management, or supervisor; c. The deed of establishment is drawn up before a notary and announced in the state supplementary report; d. Filling in the personnel of the foundation organs, that the foundation organs consist of a structure of coaches, administrators, and supervisors, which are allowed to have members from within or from outside the foundation; e. Announce the annual report; f. If the Foundation is suspected of committing an unlawful act or negligence of the Foundation's organs, the Foundation will be examined by a third party through a court order or at the request of the prosecutor's office.¹⁴

The next organ is the supervisor, according to Article 40 paragraph (1) of the Foundation Law, the supervisor is the organ of the Foundation in charge of supervising and giving advice to the Management in carrying out the activities of the Foundation so that losses do not occur. In carrying out its activities, the foundation must have at least one supervisor, whose authority, duties, and responsibilities are regulated in the foundation's articles of association. Supervisors themselves may not double as coaches or administrators of the foundation. And if there is bankruptcy caused by the negligence of the Supervisor in carrying out his duties, and the assets of the Foundation are not sufficient to cover the losses due to the bankruptcy, each member of the Supervisor is responsible for the loss.

The supervisor, which is the supervisory body, ensures the protection of stakeholders in a balanced manner and that the foundation's governance principles are met. Therefore, the Supervisors need to provide advice to the Management in terms of policies and general matters made by the Management and ensure that financial reports are prepared following applicable accounting standards. Managers and Supervisors have roles and perform the division of roles depending on the system implemented by the foundation. In general, two systems apply, namely a one-tier system, or one-tier system, and a two-tier system or two-tier system. By comparison, companies in Indonesia, following the Limited Liability Company Law, follow a two-tier system. That is the separation between the board of

¹² Shanti Wulandari, *Op.Cit.* hlm. 78.

¹³ Soni Gunawan Somali, *Op.Cit.* hlm. 41.

¹⁴ Shanti Wulandari, *Op. Cit.* hlm. 77.

directors and the board of commissioners. Companies that adhere to the Anglo-Saxon system apply a one-layer system, by combining directors and commissioners into one organ, namely the board of directors, which includes executive directors and non-executive directors.¹⁵

Basically, in carrying out its activities and processing the assets of the foundation, it is carried out entirely by the management of the foundation. Furthermore, the management is obliged to make an annual report to be submitted to the foundation supervisor regarding the condition and development of the foundation. Then the Supervisor is authorized to carry out the supervisory function and provide advice to the management in carrying out their duties and functions. Foundation managers and supervisors are required to be competent and careful in carrying out their respective duties and functions. This principle is contained in the Foundation Law. This is an effort to anticipate the foundation if the management and supervisors are negligent in carrying out their duties and functions.¹⁶

2. Foundation Organs Legal Liability For Misuse Of Foundation Funds

According to Hans Kelsen, the concept of legal responsibility (liability) is related to the concept of legal obligation. A person can be legally responsible for a certain act is that a person can be sanctioned in the case of a contrary act. Normally, in the case of sanctions imposed on the perpetrator, it is because of his actions that the person must be held responsible.¹⁷ In general, legal responsibility is divided into two forms, namely civil legal liability and criminal legal liability.

Civil law liability can be in the form of legal liability based on default and also acts against the law. Legal liability based on default usually must first have an agreement that gives birth to rights and obligations, in which the agreement has been approved by the parties concerned. And if the party charged with the obligation does not carry out or violates the obligations imposed on him, he can be declared negligent, and based on the negligence the negligent party can be held liable for civil law based on default.

While civil law liability based on unlawful acts is based if there being a legal relationship between rights and obligations. The unlawful act is based on the provisions of Article 1365 of the Civil Code which states that every act that violates the law and causes harm to others, obliges the person who brought the loss because of his mistake to compensate for the loss. and in legal liability based on unlawful acts, there is a very important causality element that must be proven that one person's fault causes harm to another person or the loss of another person is caused by the fault of the person being sued. So that mistakes and losses have a very close relationship with unlawful acts.

In the context of the civil legal liability of foundations, in carrying out the functions of the foundation, the organs of the foundation have various responsibilities in which the various responsibilities are to achieve the principles and objectives of the foundation and if a foundation cannot carry out its responsibilities, then one of the legal consequences is called liability. civil. Civil liability can occur when the foundation does not fulfill its obligations, especially obligations to third parties. From the perspective of foundations that obtain funds through public assistance, state institutions, and foreign institutions, foundations should make annual reports and other matters related to program implementation.¹⁸

If this is not carried out, then he has violated his obligations as stipulated in the Foundation Law, so it can be categorized as an unlawful act. Acts against the law can be carried out by individuals, as well as legal entities such as companies or foundations,

¹⁵ Bramantyo Djohanputro, "Pembagian Peran Organ Yayasan", (<https://www.topbusiness.id/59164/pembagian-peran-organ-yayasan.html>) diakses pada tanggal 9 November 2022.

¹⁶ Ramli, Nur Hidayah, dan Winda Ramli Siregar, "Pertanggungjawaban Organ Yayasan atas Pailitnya Yayasan menurut Undang-Undang Nomor 16 Tahun 2001 jo UndangUndang Nomor 28 Tahun 2004 tentang Yayasan", *Transparency, Jurnal Hukum Ekonomi*, Volume II, Nomor 1. Juni 2013.

¹⁷ Asshiddiqie, J., & Safa'at, A. (2006). *Teori Hans Kelsen Tentang Hukum*. Jakarta: Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi RI.

¹⁸ T Musahiddinsyah, dkk. "Pengelolaan Yayasan Menurut Asas Keterbukaan Dan Akuntabilitas (Studi Pada Yayasan Kemanusiaan Di Aceh)", *Jurnal IuS Vol 8*, No. 1, April 2020. hlm.134.

therefore if the management of the foundation does not carry out its obligations, it will cause legal consequences both to the management or organs of the foundation or the foundation itself as a legal entity. Legal liability can be imposed if the organs of the foundation do not carry out their duties and authorities as regulated in the Foundation Law and the Foundation's Articles of Association.¹⁹

Furthermore, criminal liability according to the pound is an obligation to obtain retaliation that will be received by the perpetrator from someone who has been harmed. According to Pound, the responsibility that is carried out is not only related to legal issues but also relates to moral problems that live in society. Criminal liability is also referred to as criminal liability, where criminal responsibility is intended whether a person can be criminally responsible or not for his actions.²⁰

Regarding criminal liability, there is a very important principle contained in Article 1 Paragraph (1) of the Criminal Code which states that an act is considered a crime if the act has been determined in advance in a statutory regulation. Therefore, a person can only be responsible if the act is a criminal act that has been regulated by law and can be subject to criminal penalties.²¹

In the case of the alleged misuse of social and humanitarian foundation funds by the foundation's organs this time. As a foundation that is a legal entity, the foundation must comply with the Foundation Law, and the foundation should function with the purpose and objective of establishing a foundation based on the principles of openness and accountability to the community. The Foundation Law, regulates the organs of the foundation, including the rule that the founders or management are prohibited from taking advantage of the foundation or the business activities of the foundation. This rule is contained in Article 5 of the Foundation Law.

Article 5 paragraph (1) of the Foundation Law states, "Foundation assets, whether in the form of money, goods, or other assets obtained by Foundations based on this law, are prohibited from being transferred or distributed directly or indirectly, either in the form of salaries, wages, as well as honorarium, or other forms that can be valued in money to the Trustees, Management and Supervisors". Then paragraph (2) mentions the exception to the provisions referred to in paragraph (1), it can be determined in the Articles of Association of the Foundation that the Management receives a salary, wages, or honorarium if the Foundation Management: a., not the founder of the Foundation and not affiliated with the Founder, Trustees, and Supervisors; and b. carry out the management of the Foundation directly and fully. Then in paragraph (3), the salary is re-arranged which states "The determination of the salary, wages, or honorarium as referred to in paragraph (2), shall be determined by the Trustees following the ability of the Foundation's assets".²²

Article 5 paragraph (1) emphasizes that foundation assets are prohibited from being distributed in any form. The prohibition relating to the distribution of foundation assets applies directly or indirectly, and in any form that can be valued in money to all organs of the foundation. This is arranged so that the foundation can run effectively and support national goals, and can avoid various kinds of things that can harm the community, especially if the donors are public.²³ Furthermore, in article 5 paragraph (2) there is an exception regarding paragraph (1) which is related to the distribution of salaries or honorariums, which states if:

¹⁹ I Gusti Agung Wisudawan, "Aspek Hukum Dalam Pengelolaan Yayasan Menurut Undang-Undang Nomor 16 Tahun 2001 jo Undang-Undang Nomor 28 TAHUN 2004 tentang perubahan atas Undang-Undang Nomor 16 tahun 2001 Tentang Yayasan" Jurnal Jatiswara Vol. 10, No. 2. 2016.

²⁰ Kiki Ristanto, " Tinjauan Yuridis Pertanggungjawaban Marketplace Online Terhadap Pelanggaran Hak Cipta" Skripsi Universitas Internasional Batam, 2017, hlm. 9.

²¹ Prodjodikoro, W. (2009). *Asas-Asas Hukum Pidana di Indonesia* (3rd ed.). Bandung: Refika Aditama.

²² Pasal 5 Ayat (1), (2) dan (3) Undang-Undang Nomor 28 Tahun 2004 Tentang Perubahan Atas Undang-Undang Nomor 16 Tahun 2001 Tentang Yayasan.

²³ Willa Wahyuni, "Akibat Hukum Penyelewengan Dana Oleh Yayasan" Hukum Online. (<https://www.hukumonline.com/berita/a/akibat-hukum-penyelewengan-dana-oleh-yayasan-lt62c3f8ecbe64b/?page=2>) Diakses pada tanggal 7 Juli 2022.

in the articles of association there are things that regulate the salaries and facilities of the management, where the management is not the founder of the foundation and is not affiliated with the founder, builder or supervisor of the foundation. Also added paragraph (3) states that the provision of salaries and facilities and infrastructure must be known and signed by the Trustees of the foundation by the ability of the Foundation.

According to Azmi, quoted from Hukum Online, by looking at the provisions of Article 5 of the Foundation Law, it can be a space to comb through the criminal liability of the foundation's organs, including whether there are other criminal acts in the form of embezzlement or criminal acts of counterfeiting. Based on regulations and articles of association regarding the alleged misuse of the foundation's legal entity, the facts will be seen as whether it has deviated from the purpose of establishing the foundation or vice versa. This is because a foundation legal entity cannot be used as a means of seeking profit for any reason. Therefore, parties who have an interest in the foundation such as supervisors, administrators, and supervisors may not benefit from the foundation. Because all kinds of foundation wealth and profits should be used properly for the achievement of the aims and objectives of the foundation.²⁴

And if the organ of the foundation is proven to have taken advantage, it can be subject to criminal sanctions against the actions of the perpetrator who receives the distribution or transfer of the assets of the foundation. This is following Article 70 paragraphs (1) and (2) of the Foundation Law. Which states that each member of the Foundation's organs who violates the provisions as referred to in Article 5, shall be punished with imprisonment for a maximum of 5 (five) years. Then Article 70 paragraph (2) states, In addition to imprisonment, members of the foundation organs as referred to in paragraph (1) are also subject to additional penalties in the form of an obligation to return the money, goods, or foundation assets that are transferred or distributed.

CLOSING

The government has regulated related foundations through Law No. 16 of 2001 concerning the Jo Foundation. Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations. The Law on Foundations states that foundations must function following their aims and objectives based on the principles of openness and accountability to the community. The Foundation Law states that the Foundation's organs consist of Trustees, Management, and Supervisors, which in carrying out their duties, functions, and authorities must be under the Foundation Law and also the Foundation's Articles of Association. Carrying out its activities and processing the assets of the foundation is carried out entirely by the management of the foundation. Furthermore, the management is obliged to make an annual report to be submitted to the foundation supervisor regarding the condition and development of the foundation. Then the Supervisor is authorized to carry out the supervisory function and provide advice to the management in carrying out their duties and functions. Foundation managers and supervisors are required to be competent and careful in carrying out their respective duties and functions under the Foundation Law.

Foundation is a legal entity that in carrying out its functions and objectives. Foundation organs have various responsibilities and obligations that must be carried out by the foundation organs following the Foundation Law so that if they violate these legal obligations, they can be categorized as acts against the law. Furthermore, in carrying out their duties, functions, and authorities, Foundation organs are prohibited from taking advantage of the foundation's wealth, this is regulated in Article 5 of the Foundation Law,

²⁴ Rofiq Hidayat, "Melihat Pertanggungjawaban Hukum Yayasan Pengumpul Dana Publik" Hukum Online. (<https://www.hukumonline.com/berita/a/melihat-pertanggungjawaban-hukum-yayasan-pengumpul-dana-publik-lt62c3ec92ea356/?page=1>) Diakses pada tanggal 7 Juli 2022

and if proven to have violated these provisions, the Foundation's Organs can be punished according to the provisions of the Foundation Law, which provisions are contained in Article 70 Foundation Law. Therefore, in this case, to avoid misuse of foundation funds, there is a need for supervision and active public participation of foundations, especially those that collect public funds, so that the foundation can run by its aims and objectives. And to realize accountability and openness as a condition for the fulfillment of foundations as public bodies with good governance following the Foundation Law.

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