



Regulation Problems of Case Settlement using E-Courts in Indonesia Courts

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ABSTRACT

The Supreme Court Regulation No. 1 of 2019 concerning the Electronic Administration of Cases and Assembly is a breakthrough in the field of law to keep up with the development of information and technology. There are more incoming cases than solved cases. The implementation of e-court in solving cases must be in line and supportive with formal law principles. This study uses a normative juridical method using the statute approach and case approach. Service improvement and settlement of cases must be the obligations of judicial power, supported by the electronic media. E-Court has a role in creating a quick, effective and substantial justice system in settlement of cases under fairness principle and certainty of law.

Keywords: *Regulation, E-Courts, Case, Indonesia Courts*

INTRODUCTION

The Indonesian Constitution explains that the State of Indonesia is a state of law (*rechtsstaat*) not a state of power (*machtstaat*). The consequence of this provision is that law in the administration of the state must be based on law and public order in accordance with the rule of law. The development of law in Indonesia is not only on material law but also formal law or procedural law. The development of formal law is inseparable from obstacles in the process of justice. At present, law enforcement still finds problems in its application. The problematic of the judicial process is that the implementation of the law is not in accordance with formal legal principles such as the principle of fast, cheap, efficient,



transparent and accountable. The number of cases that go to court is higher than the number of cases that have been settled. So that everyone who seeks justice must experience some obstacles in the field of administration and the time of completion of the judicial process.

Law enforcement in principle must be able to provide benefits and legal certainty for the community and the achievement of justice. The judiciary is in charge of law enforcement within the framework of judicial power. Judicial power has a responsibility to the judicial bodies that administer judicial power so that it runs in accordance with existing regulations. The Supreme Court of the Republic of Indonesia as a judicial body which oversees the judiciary in the environment of the general court, religious court, military court and state administrative court. Therefore the Supreme Court of the Republic of Indonesia passed regulations as a solution to problems related to administration and obstacles in the judicial process. On 4 April 2018 the Supreme Court of the Republic of Indonesia ratified the Supreme Court Regulation No. 3 of 2018 concerning Case Administration in Electronic Courts (E-Courts) which applied to civil, religious, military and state administrative courts. The criminal court is still not applied in this regulation. Its contents govern the process of case registration, payment of court fees, summons of parties, issuance of copies of decisions, as well as various online administrative governance. After the regulation, the Supreme Court of the Republic of Indonesia required 56 District Courts to implement e-Court. Then the Indonesian Supreme Court issued a Supreme Court Regulation No. 1 of 2019 concerning Case Administration and Trials in Electronic Courts (E-Courts) as a complement to E-Courts in trials to perfect e-court regulations, especially in the trial process.

E-Court is a court instrument as a form of service to the community in terms of online case registration, electronic fee estimate, online fee down payment, online summons and online trial sending trial documents (Replic, Duplicate, Conclusion, Answer)¹. This e-court regulates starting from users of case administration services,

¹ Mahkamah Agung Republik Indonesia. Buku Panduan E-Court. <https://ecourt.mahkamahagung.go.id/> MahkamahAgungRepublikIndonesia diakses pada tanggal 1 Februari 2020.



registration of case administration, summons of parties, issuance of copy of decisions, and administrative governance, payment of case fees which are all done electronically / online when submitting a petition / lawsuit, civil, religious, administrative state businesses that apply in each court environment. E-Court as a solution to the problem and to facilitate the administrative process and justice services. Because all this time, to register a case, every applicant / plaintiff must come to court. Payment of court fees is easier and more transparent because it is connected to an e-payment system where payments are made to court accounts at banks through the available electronic payment channels. At present, electronic payments can be made through government banks namely Bank BTN, Bank BRI, Bank BNI, and Bank Mandiri. The e-court application is an embodiment of the implementation of Supreme Court Regulation Number 3 of 2018 concerning Case Administration in Electronic Courts. This regulation is an innovation as well as a commitment to the Supreme Court of the Republic of Indonesia in realizing reforms in the world of Indonesian justice (Justice reform) which synergize the role of information technology (IT) with procedural law (IT for Judiciary)² then perfected by Supreme Court Regulation (Perma) Number 1 of 2019 concerning Case Administration and Trials in Electronic Courts.

Since the E-Court was put in place in the court of law and has already gone through a trial period, it's no wonder the E-Court still has some weaknesses that need to be refined. The challenges faced in this new system are, for example, the economic condition of Indonesia's geographical or unequal access to technology. And some weaknesses that must be considered at this time e-court service system can only be done for advocates or legal advisors who have received validation from the Supreme Court of the Republic of Indonesia and are an option for the agreement of the parties who want to use the E-Court system or not. In addition, the E-Court cannot be conducted in full in the judicial process because it would conflict with other procedural law principles, for example the E-Court cannot be conducted in

² Ditjenmiltun Mahkamah Agung RI, E-Court, Era Baru Beracara di Pengadilan, <https://www.pt-bengkulu.go.id/berita/e-court-era-baruberacara-di-pengadilan> diakses pada tanggal 2 Februari 2020



examining witnesses and if this is done the judge does not examine witnesses directly. Therefore the E-Court as a new innovation to support the principles of law in the judicial process.

RESEARCH METHOD

The research method is a tool used to study or explore research so as to solve solutions to the problems or legal issues of this research. This study uses normative juridical research methods. The approach used in legal research is the statute approach, the case approach, the historical approach, and the conceptual approach³. The approach used in this study uses the approach of the statute approach (statute approach) by examining the laws and regulations concerned with the legal issues being discussed and the case approach by examining cases related to this research.

RESULT AND DISCUSSION

Problems in E-Courts System Implementation

The administration of the judicial administration system from the offline system to the online system (E-Court) is a new way to implement the principle of simple, fast, low cost, transparent and accountable. The e-court application is a centralized system, meaning that the application is located in the Indonesian Supreme Court Data Center which is integrated with the Case Tracking Information System (SIPP) at the First Level Court, so that it does not need to be installed on each court server or website, because it will automatically connected to the database on the Case Search Information System Application (SIPP) in each court that has implemented an e-court. Registered users are only addressed to Advocates, this is intended as an effort to manage potential risks, in the form of security risks, application integrity and the burden arising for existing infrastructure. It is also intended to manage education and socialization needs in the context of migration from manual to electronic systems, advocates are considered and expected to be

³ Peter Mahmud Marzuki, *Penelitian Hukum (Cetakan ke-9)*, Jakarta, KENCANA, 2014, Hlm. 41



better equipped to respond and familiarize themselves with the use of this application as part of the gradual change management in the field of case management from manual to electronic⁴. The electronic registrar of the Advocate case must create an account / user on the e-Court application with an electronic domicile that has been validated by the High Court where he is sworn in by completing Advocate data such as KTP, Advocate Member Identity Card, and the Official Oath which must be uploaded into the e application -court. Registered users can register cases electronically at the Court that has implemented e-court using 1 (one) account that has been registered and validated on the Supreme Court e-court application. Electronic case registration will get a barcode and register number online (not the case number)⁵.

E-Court can be used to send and receive trial documents such as Replicas, Duplicates, Conclusions and or Answers. The e-court application is also used for electronic summons to parties who have agreed and to the plaintiff / applicant who registers electronically is considered to agree to use electronic channels for summons. E-court applications can be accessed from anywhere and with a certain time, by anyone (as long as you have an account / user) with an internet connection and a device that has a web browser. For information, the purpose of launching the e-court application is to improve the Ease of Doing Business (EODB) index in Indonesia, which one of the points is the simplification of judicial proceedings. In addition, this application aims to adjust the demands and development of technology and information, and in order to create a simple, fast, and low-cost court. This is a form of progress and innovation echoed by the Supreme Court, an obligation for the Directorate General of the Military Courts and State Administrative Courts and the judicial apparatus in their environment to support the implementation of this innovation.

The application of E-Court provides a change in a clean justice system for people who want justice and legal certainty, but still cannot be independent. Not a

⁴ Pengadilan Negeri. *Frequently Asked Questions*. <http://pn-kisaran.go.id/images/e-court/FAQ.pdf>. Diakses pada tanggal 6 Februari 2020.

⁵ Pengadilan Militer II-08 Jakarta. Berkenalan dengan E-Court. <https://www.dilmil-jakarta.go.id/?p=3045> diakses pada tanggal 2 Februari 2020.



few general public who do not know how to settle a case in court and of course need someone who is an expert in their field. The implication is that the E-Court still has several problems in its implementation. Inequality in the quality of technological facilities and the level of technological literacy in all regions of Indonesia is also feared, which is an opportunity for new-style judicial mafia practices. According to Yohannes Sogar Simamora, the E-Court must not negate the examination of witnesses directly at the trial. He even more agreed if the e-court was only limited in case registration⁶.

The judicial process is not good using e-court because certain processes must be done face to face. Meanwhile, Herowati Poesoko's opinion emphasized that the authenticity of documents and documentary evidence used in e-court. One of the facilities used in e-court indeed allows the management, delivery and storage of civil case documents using an electronic system. In this case he sees that there will be opportunities for electronic evidence to become part of the proceedings using e-court. From the point of view of advocates as practitioners who have access to E-Court, not a few have experienced difficulties when facing a case in building an alibi to defend their clients. Because the law has a certain standardization, not every fact in a case can be used as a legal fact. Data and facts must be packaged, so that they can be intact and legally integrated.

Regulation of the E-Court System based on Judicial Law Principles

The legal basis for the implementation of the E-Court is the Supreme Court Regulation (Perma) Number 1 of 2019 concerning Case Administration and Trials in Electronic Courts with the reason for carrying out the principle of justice which has been an obstacle in its application. The principle of justice that is simple, fast and low cost is one of the principles in the justice system in Indonesia. The existence of this principle has existed since Law Number 14 of 1970 concerning the Basic

⁶ Edwin Elnizar, Catatan Kritis 5 Profesor Hukum Acara Perdata tentang e-Court, Selasa, 14 August 2018, alamat website: <https://www.hukumonline.com/berita/baca/lt5b72a77076d07/catatan-kritis-5-profesor-hukum-acara-perdata-tentang-e-court/> diakses pada tanggal 2 Februari 2020.



Provisions of Judicial Power which is no longer valid. The principle that is now regulated in Law Number 48 Year 2009 concerning Judicial Power reads "The court helps justice seekers and tries to overcome all obstacles and obstacles in order to achieve a simple, speedy and low cost trial". In essence, the purpose of this principle is that the judicial process is not convoluted, the event is clear, easy to understand and even affordable costs at the grassroots level⁷.

Sudikno Mertokusumo argues, what is meant by simple is a clear, easy to understand, and not convoluted event. The less formalities required or required in court proceedings the better, there are too many formalities that are difficult to understand or rules that are ambiguous so as to enable the emergence of various interpretations which do not guarantee legal certainty and cause reluctance or fear to proceed in court. The word quickly refers to the way the judiciary is too much formality is an obstacle in the way of justice. Low costs to be borne by the people, high costs cause interested parties reluctant to submit claims to the court. The role of E-Court here must be able to summarize or simplify the judicial process without eliminating or contradicting the principles of judicial procedural law.

CONCLUSION

E-Court is the implementation of Supreme Court Regulation Number 3 of 2018 concerning Case Administration in Electronic Courts and Supreme Court Regulation (Perma) Number 1 of 2019 concerning Case Administration and Trials in Electronic Courts as a supplement. The previous problem was that the cases that entered made it difficult for the judiciary to provide maximum services. E-Court system to support improving services in its function of accepting online case registrations where the community will save time and money when registering cases. The enactment of an E-Court can provide a change in a clean justice system for people who want justice and legal certainty.

⁷ Prianter Jaya Hairi. Antara Prinsi Peradilan Sederhana, Cepat dan Berbiaya Ringan dan Gagasan Pembatasan Perkara Kasasi, <https://jurnal.dpr.go.id/index.php/hukum/article/view/190/132> Diakses pada tanggal 3 Februari 2020.



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