

The Application of E-Court by the Panel of Judges in the Perspective of Civil Procedure Law

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Abstract

Introduction: The development of information technology has brought very significant changes in various sectors, including the legal system in Indonesia. To realize the principles of fast, simple and low-cost justice, the Supreme Court of the Republic of Indonesia issued Supreme Court Rules Number 1 of 2019 as amended by Supreme Court Rules Number 7 of 2022, in response to the demands of efficiency, transparency, and accessibility in the judicial process. However, in its implementation, there are limitations and challenges in the Supreme Court Rules.

Purposes of the Research: This research aims to explore and understand e-court regulations and examine the challenges in the implementation of e-courts in the Indonesian judicial system.

Methods of the Research: Using normative legal research methods with Statute approach and conceptual approach.

Results Main Findings of the Research: The results of the study show that the legal basis of the panel of judges in the implementation of e-court lies in article 6 paragraph (8) and article 20 of Supreme Court Rules Number 1 of 2019 as amended by Supreme Court Rules Number 7 of 2022, as well as other legal principles that serve as guidelines for the panel of judges in the implementation of e-court. However, the use of e-court in resolving cases electronically is not optimal, this is because there are a number of obstacles such as limited facilities and infrastructure, lack of understanding from law enforcement officials and the public about e-court, as well as legal regulations that have not been effective and other problems.

Keywords: E-Court; Judicial System; Civil Procedure Law.

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INTRODUCTION

The development of information technology has brought significant changes in various sectors, where the process of computerization and digitalization has occurred and has affected almost all aspects of human life, including the legal system,¹ in response to the demands for efficiency, transparency, and accessibility in the judicial process, the Supreme Court of the Republic of Indonesia issued Supreme Court Regulation Number 1 of 2019 which has then been amended by Supreme Court Regulation Number 7 of 2022 concerning Electronic Administration of Cases and Trials in Court.

This regulation aims to realize the principle of simple and fast justice and low costs, on the basis of this, the Supreme Court made a big leap and a Electronic Court system (hereinafter referred to as *the E-Court system*) was born which is expected to make it easier

¹ Lumbanraja, A. D. (2020). "Perkembangan Regulasi dan Pelaksanaan Persidangan Online di Indonesia dan Amerika Serikat Selama Pandemi Covid-19". *Crepid 2*, no. 1 (2020): 46-58.

for justice seekers in the process of appearing in the Court.² The *E-court* application is expected to be able to improve services in its function of accepting online case registration, so that the public will save time and costs when registering cases.³ Of course, this opens up space for *access to justice*, especially for the economically weak and socio-politically vulnerable, for this reason the court is required to help justice seekers to receive fair treatment.⁴ Supreme Court Regulation Number 1 of 2019 as amended by Supreme Court Regulation Number 7 of 2022 concerning Electronic Case Administration and Trials in Court. which is used to process, lawsuit or application, pay cases electronically, and make electronic summonses of hearings. The *E-Court* application space is as follows: online case registration (*e-Filing*), online fee payment (*ePayment*), electronic summons (*e-Summons*), and online trial (*eLitigation*).⁵

Registered users are advocates who have been verified in the High Court. The application of a technology-based procedural system, namely *E-court*, has a philosophical basis that is guided by the principles of simple, fast, and low cost which is one of the principles of the implementation of judicial power as stated in Article 2 Paragraph (4) of Law Number 48 of 2009 concerning judicial power. The practice of efficient administration of justice with the principle of simplicity, speed, and low cost is a practice with a universal foundation.⁶

However, the effectiveness of this implementation is still a crucial issue. Where in its development, it was found that it was a violation of the Supreme Court's regulations. This obstacle is related to where not all courts have opened or implemented the *E-court* service, this is due to the constraints of installing the network service system in each District Court and the ability of human resources who are able to operationalize the application. In addition, it is necessary to encourage further socialization of the use of the *e-court* application among the District Courts and also the public as users of the service, so that it can increase the use of the application in the administrative process of case registration at the District Court. so that it is quite reasonable to conduct a study on the application of the *e-court* by the panel of judges reviewed from the Civil Procedure Law.

METHODS OF THE RESEARCH

This research uses a normative legal research type *with a* statutory and conceptual approach. Normative legal research is a method or method used in legal research that is carried out by researching existing literature materials.⁷ As well as normative legal research that is determined by a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues faced, in this research the legal issue is the legal responsibility of hospitals in health services reviewed from the civil law aspect.

RESULTS AND DISCUSSION

A. Authority in Determining E-Court by the Panel of Judges in the Civil Procedure Law

² Annisa Dita Setiawan, Artaji, and Sherly Ayuna Putri, "Implementasi Sistem E-Court Dalam Penegakan Hukum Di Pengadilan Negeri", *Jurnal Poros Hukum Padjadjaran* 2, no. 2 (2021), p. 201

³ Buku Panduan E-Court Panduan Pendaftaran Online untuk Pengguna Terdaftar, (Jakarta: Mahkamah Agung RI, 2018), p. 3.

⁴ Artidjo Alkostar, *Independensi dan Akuntabilitas. Makalah Disampaikan dalam Pemerkuatan Pemahaman Hak Asasi Manusia untuk Hakim Seluruh Indonesia Yang Diselenggarakan oleh Komisi Yudisial-PUSHAM UII dan Norwegian Center For Human Rights*, 2012. p. 1

⁵ Mumtaza Azzahiroh, Hasan Alfi Zamahsari, and Yan Mahameru, "Implementasi Aplikasi ECourt Dalam Mewujudkan Pelayanan Publik Yang Baik Di Pengadilan Negeri Kota Malang", *Jurnal Teknologi dan Komunikasi Pemerintahan* 2, no. 2 (2020), p. 65

⁶ Susanto, Muhamad Iqbal, and Wawan Supriyatna, "Menciptakan Sistem Peradilan Efisien Dengan Sistem E Court Pada Pengadilan Negeri Dan Pengadilan Agama Se-Tangerang Raya", *Jurnal Cendekia Hukum* 6, no. 1 (2020), p. 2.

⁷ Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana Prenada Media Group, 2015), p. 87.

The development of information technology has brought major changes in various fields, one of the innovations adopted by the Supreme Court of the Republic of Indonesia is the electronic justice system or known as *E-Court*. The implementation of *e-Court* is a strategic step. In principle, the judiciary in Indonesia has adopted the principles of good justice comprehensively, namely simple, fast, and low cost, this is expressly regulated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Power. Justice. These three principles have been sought in such a way that they can be implemented properly by the entire judicial system in Indonesia, especially the civil justice system.⁸ All registration files are sent electronically through the *E-court* application of the Supreme Court of the Republic of Indonesia.⁹ Thus, the application of *e-court* in administration for cases electronically keeps traces of the dive, in addition to being controllable.¹⁰ Therefore, it is important to understand the legal basis that authorizes judges in the application of *e-Court*. Basically, the authority of the panel of judges in determining the course of the trial is as stated in Article 18 of Law number 48 of 2009 concerning judicial power, stating that judicial power is carried out by a Supreme Court and the judicial bodies under it in the general judicial environment, the religious justice environment, the military justice environment, the state administrative judicial environment, and by a Constitutional Court.

The basis of the authority of the panel of judges in the implementation of *the e-Court* system in Indonesia is regulated in several regulations, including: First, Court Regulation Number 1 of 2019 as amended by Supreme Court Regulation Number 7 of 2022 concerning Case Administration and Trials in Court Electronically. Second, the Supreme Court Circular Letter Number 1 of 2022 which provides technical guidelines for the implementation of *e-Court* and *e-Litigation*. According to Supreme Court Regulation Number 1 of 2019, *e-Court* not only covers electronic case administration (*e-Filing*, *e-Payment*, and *e-Summons*), but also includes electronic trials (*e-Litigation*)¹¹, namely trials that are conducted online or through the exchange of electronic documents. Although the *e-Court* system has been normatively regulated, its application in practice still requires a discretionary assessment from a panel of judges. This is because not all cases and conditions allow it to be carried out electronically. The judge's authority in determining the application of *e-Court* is regulated in several important articles, which can be seen in Article 6 paragraph (8) of the Supreme Court Regulation Number 1 of 2019 as amended to Perma number 7 of 2022 stating that the presiding judge of the panel can determine the stages of electronic trials in accordance with the needs and conditions of the case. Then Article 20 of Supreme Court Regulation Number 1 of 2019 as amended into Supreme Court Regulation Number 7 of 2022 concerning Case Administration and Trials in Electronic Court emphasizes that the use of *the e-Litigation* system is carried out with the agreement of the parties. However, if one of the parties refuses, then the judge can decide to continue to determine the direct hearing he wants.

From these provisions, the author considers it quite clear that the judge has the authority to consider the technical feasibility, readiness of the parties, the type of case, and the efficiency of the process in determining whether the trial can be conducted electronically.

⁸ Mohammad Saleh, *Penerapan Asas Peradilan, Sederhana, Cepat, dan Biaya Ringan Pada Eksekusi Putusan Perkara Perdata*, (Yogyakarta: Graha Cendekia, 2016), p. 39.

⁹ Rakyu Swarnabumi, *et al.*, "Sistem E-Court Dalam Pelaksanaan Peradilan di Indonesia Pada Masa Pandemi Covid-19", *Jurnal Ilmu Hukum Tambun Bungai* 6, no. 2 (2021), p. 9

¹⁰ Hidayat, F. P., & Asni, A. "Efektifitas Penerapan E-Court Dalam Penyelesaian Perkara Di Pengadilan Agama Makassar". *Qadauna: Jurnal Ilmiah Mahasiswa Hukum Keluarga Islam* 2, no. 1 (2020): 104-118.

¹¹ Mumtaza Azzahiroh, Hasan Alfi Zamahsari, and Yan Mahameru, "Implementasi Aplikasi ECourt Dalam Mewujudkan Pelayanan Publik Yang Baik Di Pengadilan Negeri Kota Malang", *Jurnal Teknologi dan Komunikasi Pemerintahan* 2, no. 2 (2020), p. 65

By still paying attention to the principles of the Applicable Civil Procedure Law, including: 1) The Principle of *Audi Et Altream Partem*: in this Principle it is obligatory for the judge to hear and pay attention to the information of both parties to the case. The judge must give all parties an equal opportunity to present arguments, evidence, and witnesses. This principle guarantees justice and equality in the judicial process; 2) The principle of open justice to the public: The principle of open justice to the public is one of the fundamental principles in a democratic judicial system. This principle means that the entire trial process, including the examination of the case, the evidence, and the reading of the verdict, must be able to be attended or witnessed by the general public, unless the law specifies otherwise. The main purpose of this principle is to ensure the transparency and accountability of the courts and to maintain public confidence in the judiciary; 3) Legal certainty and justice for the parties.

Legal certainty is a fundamental principle in the legal system that guarantees that laws can be enforced consistently, immutably, and predictably by society. Legal certainty basically gives a sense of security to the community that legal settlements will be carried out fairly, objectively, and based on the applicable written law. Justice is a moral and legal principle that demands that everyone be treated equally and get their rights proportionately. Therefore, the judge must ensure that the application of *e-Court* does not reduce the procedural rights of the parties to the case. If there are parties who are unable to access technology or experience obstacles in using electronic systems, the judge has the authority to decide to return to the conventional trial system (face-to-face).

B. Challenges Faced in Determining E-Court Based on Supreme Court Regulation Number 7 of 2022 concerning Case Administration and Trials in Court Electronically.

The system created by humans continues to develop gradually in order to achieve perfection, including in the *e-Court* justice system, as a breath of fresh air in realizing fast, simple, and low-cost justice, of course this has a significant role,¹² and has a lot of benefits in the legal world in Indonesia. Where the benefits and convenience of the event are felt directly by the justice seekers. Among others, they are as follows: First, for the parties, the disputing party can register their case remotely without the need to come to the District Court. In addition, notices of summonses for hearings, and other information can be immediately received by related parties through the *e-Court* page, including the necessary evidence arena will be uploaded by District Court officers at the same time. Another benefit is cost efficiency, where the cost of calls that can be made electronically makes expenses for each case very minimal, even reaching zero rupiah. In addition, another advantage is the accessibility that covers all regions of Indonesia, including remote areas, as long as there is a network that supports access to *e-Court*. Second, for District Court employees, this *E-Court* Process also makes it easier for District Court employees who are responsible for checking the completeness of evidence, which is often incomplete or inappropriate, with direct uploading by the parties, the checking process becomes faster. Thus, the process of resolving cases at trial is not always carried out conventionally (coming to trial).¹³ Third, for advocates, advocates who handle more than one case, can register cases or conduct judicial proceedings remotely just by using *e-Court*. One of the perceived advantages is a faster event process. This is due to the reduction of the steps that are usually needed, ranging from

¹² Pradipa Saraswati and others, *Gudang Jurnal Multidisiplin Ilmu Penerapan E-Court Dalam Proses Beracara Di Pengadilan Negeri Jakarta Selatan*, 2 (2024), 189-93

¹³ Intihani, S. N., Arifudin, A., & Juliani, J. "Efektivitas Persidangan Berbasis E-Court". *Veritas* 8, no. z1 (2022): 67-81.

registration, notification, hearing, to decision. Fourth, Benefits of e-Court Technology in Increasing Efficiency The main benefit of the implementation of e-Court in the Gunungsitoli District Court is the increase in efficiency in the judicial process. This technology shortens the time required for administrative and trial processes. Correspondence that previously took a long time because it had to be sent through the post office can now be done electronically. In addition, the e-Court application also allows the payment of trial fees to be made more easily and quickly, without the need to make additional application letters.

The challenges that exist due to the implementation of the *E-Court system* are: a) The condition of human resources who stutter technology also often hinders the implementation of *e-Court*, because it is required to reconfirm to ensure that it is true or not; b) The condition of the internet network in each Regency or City in Indonesia must be different, especially if the area of the user is remote and difficult to reach, so that it is not possible for the user to access the *e-Court* page to register a case or seek justice, so that again the user must come directly to the Ambon District Court to carry out the judicial process, because in the implementation of the stage of case registration through the *e-Court* is not only "registered", but there is a process of uploading files, virtual payments, and others which, of course, requires network access that sufficient for the smooth registration process of the case until it is declared "successful"; c) The *e-Court system* in the judiciary is not comprehensive. The shortcoming that can be found at the moment is that the cases filed using *e-Court* are not exhaustive¹⁴, because currently in civil cases that use online justice through *e-Court* in the District Court can only be accessed for the first stage of cases and appeals, while for cassation and review are still carried out conventionally; d) the challenge of the *e-Court system* is that the registration of online cases is specifically for Advocates¹⁵, So that the disputing party cannot directly submit their documents independently. This can limit access for people who do not have advocates or cannot afford to hire legal services. Additionally, reliance on advocates can lead to delays in the registration process, especially if the advocate has many cases to deal with. Thus, parties involved in disputes may have difficulty in obtaining quick and efficient access to the justice system; e) The next obstacle is related to online crime or *Cybercrime*. As we know, we can still find the perpetrators of online crimes. Regarding E-Court, which is carried out online, it is possible that files that have been uploaded to the E-Court system can be hacked by others.¹⁶ This is also sometimes what makes lawyers worried when uploading files to the system. Cybercrime is a concern of the Semarang State Administrative Court, so they will continue to improve their cyber security measures. This is to protect the data of ongoing and resolved cases, so as not to cause concern for the parties involved in the case; f) Virtual payments are integrated with all banks. In modern times, the payment system should be added not only to accounts in State-Owned Enterprises banks but also to include digital money (e-money) because not all E-Court users have the required accounts.¹⁷

¹⁴ Tsabitha, A., Rahmadhani, A., Pebrianti, K. R., & Zakaria, S. A. "Analisis Penerapan ECourt Dalam Sistem Peradilan Perdata di Indonesia Guna Mewujudkan Peradilan yang Transparan". *Media Hukum Indonesia* 2, no. 4 (2024).

¹⁵ Sofiana, M., Supriyadi, E., & Karomah, N. G. "Efektivitas Penerapan Pelayanan E-Court Di Era Endemi Covid-19 Pada Pengadilan Agama Pekalongan Kelas IA". *Journal of Social and Economics Research*, 6, no. 1 (2024): 209-221.

¹⁶ Herlambang, P. H., Utama, Y. J., & Putrijanti, A. "Upaya Peningkatan dan Penerapan Penggunaan E-Court pada Pengadilan Tata Usaha Negara Semarang". *Jurnal Hukum Progresif* 11, no. 2 (2023), 94-107.

¹⁷ Arif, M. I., & Wibowo, A. (2024). Penerapan Sistem E-Court Di Pengadilan Tata Usaha Negara Pontianak Terhadap Asas Cepat, Biaya Ringan, Dan Sederhana: The Implementation of the E-Court

CONCLUSION

The launch of E-Court brought a very significant change in the judicial system in Indonesia, especially in order to realize the principle of simple, fast, and low cost, basically judges are given discretionary authority in determining whether a case is suitable for hearing electronically or not, taking into account the technical readiness, type of case, and condition of the parties, as stipulated in the Supreme Court Regulation and is supported by the principles of civil procedural law such as Audi et Alteram Partem, Judiciary Open to the Public, Legal Certainty, and Justice. Although the benefits of E-Court are immense for the general public, advocates, and court officials as a form of cost savings, time, and increased transparency, its implementation still faces a number of serious challenges. The obstacles include: 1) Limited technological infrastructure and internet access in various regions; 2) Limited human resources who are not fully prepared or skilled to use digital systems; 3) The system is not comprehensive, because the e-Court is currently still limited to first-instance cases and appeals, has not reached cassation or review; 4) Limited access for non-advocates, which makes it difficult for the general public to access the E-Court independently; 5) Digital security risks or cybercrime that threaten the integrity and confidentiality of case data; 6) Virtual payment systems that are not yet inclusive of various digital platforms such as e-wallets or non-State-Owned Enterprises bank accounts. Therefore, although the implementation of E-Court is a significant innovation in the reform of Indonesia's civil legal system, adjustments and improvements are still urgently needed. It is necessary to strengthen technological infrastructure, massive socialization, increase the capacity of Human Resources, and expand access for non-advocate communities. In addition, cybersecurity must also be improved in order to maintain public trust in the digital justice system. Overall, the success of the E-Court as the embodiment of modern judicial principles will be largely determined by the synergy between strong regulations, effective technical implementation, and the protection of the procedural rights of the parties. This is important to ensure that digital innovation not only becomes a symbol of technological progress, but also truly guarantees fair, equitable, and reliable access to justice for all Society.

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