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Electronic Gambling Crime Analysis in Case No. 368 / Pid.Sus / 2025 / PN Mdn

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Abstract

Electronic-based gambling (online) is a phenomenon that is increasingly prevalent in the midst of the development of Information Technology. The problems that arise in the legal context are how law enforcement officers qualify gambling crimes committed electronically, as well as how criminal sanctions are applied against the perpetrators. This paper aims to analyze the elements of electronic gambling crime and the application of law in Decision No. 368/Pid.Sus / 2025 / PN Mdn. The research method used is juridical normative approach to legislation and case studies. The results showed that the defendant's actions meet the elements of the crime of gambling as stipulated in Article 303 of the Criminal Code and Article 45 paragraph (2) jo. Article 27 paragraph (2) of the ITE Law. The court's decision has been in accordance with the principles of criminal law, but in the context of cybercrime, more progressive legal measures are needed in the prevention and enforcement of the law.

Keywords: *Criminal Acts, Electronic Gambling, Court Decisions, Cybercrime, ITE Law.*

1. Introduction

The rapid development of information and Communication Technology (ICT) has brought fundamental changes in various aspects of human life, both in the social, economic, and cultural fields. However, this progress has also opened up opportunities for various new forms of digital-based crime or what is known as cybercrime. One form of cybercrime that is a serious concern in Indonesia is the crime of electronic gambling (online gambling). This phenomenon is a complex problem because it is cross-country, cross-jurisdictional, anonymous, and difficult to be monitored by conventional law enforcement officers.¹

In Indonesian criminal law, the crime of gambling is regulated in Article 303 and Article 303 BIS KUHP which is a legacy of colonial law. However, these provisions only target

¹ Rudi Hartono, "Cybercrime: Studi Kritis Terhadap Penerapan Hukum Pidana di Era Digital," *Jurnal Hukum Siber Indonesia*, Vol. 2, No. 1, 2023, pp. 19.

conventional or traditional forms of gambling that are carried out physically.² The development of online gambling through internet media, applications, and overseas server-based digital platforms demands more progressive legal adjustments. Therefore, through law No. 11 of 2008 on information and Electronic Transactions (UU ITE) as amended by law No. 19 of 2016, the state provided a stronger legal basis for ensnaring online gambling offenders.³

Article 27 paragraph (2) of the ITE Law states that any person who intentionally and without the right to distribute, transmit, and/or make accessible electronic information or electronic documents that have gambling content can be punished. In addition, Article 45 paragraph (2) provides a more severe criminal threat than the provisions of the criminal code, namely imprisonment for a maximum of 6 (six) years and/or a fine of at most Rp1, 000, 000, 000.00 (one billion rupiah).⁴with this provision, law enforcement officials are expected to be able to eradicate online gambling that has penetrated various walks of life and has a damaging social impact, especially on the younger generation.⁵

Although legal arrangements have been in place, in practice there are still challenges in the implementation of criminal law against the crime of electronic gambling. Problems often faced by law enforcement officers include difficulties in proving, collecting valid digital evidence, tracking electronic financial transactions, as well as obstacles in cross-border cooperation related to controlling gambling servers, most of which are located abroad.⁶

Verdict No. 368/Pid.Sus / 2025 / PN Medan is an interesting case study to study, because this case is a concrete example of how the court applies criminal law that combines the provisions of the Criminal Code and the ITE Law in trapping online gambling offenders. In the case, the defendant operated an online gambling site that facilitated Indonesians to gamble online, obtained profits from the results of transactions made, and disseminated gambling advertisements through social media and streaming sites.⁷ the panel of judges decided this case using the provisions of Article 303 of the Criminal Code jo. Article 45 paragraph (2) of the ITE Law, which shows the synergy of conventional criminal law and cyber law in tackling digital crime.

² Hasibuan, E. S. (2022). The Role of Indonesian Police Through 'Cyber Patrol' in Preserving and Maintaining Cyber Room Security. *International Journal of Social Service and Research*, 2(8), pp.722-728

³ Safira Maulida, *Perjudian Online dalam Perspektif Hukum Pidana Indonesia*, Jakarta: Prenadamedia Group, 2023, pp.. 44.

⁴ Muhammad Taufik, *Hukum Informasi dan Transaksi Elektronik di Indonesia: Aspek Teori dan Praktik*, Bandung: Refika Aditama, 2023, pp. 81.

⁵ Lembaga Studi Hukum Siber (LSHS), "Dampak Sosial Perjudian Online Terhadap Generasi Muda," *Laporan Tahunan LSHS*, Jakarta, 2023, hlm. 9.

⁶ Rini Febriani, "Tantangan Penegakan Hukum Terhadap Tindak Pidana Perjudian Elektronik," *Jurnal Hukum Kriminalitas Digital*, Vol. 1, No. 2, 2022, pp. 35

⁷ Putusan No. 368/Pid.Sus/2025/PN Medan.

In the academic context, the analysis of this ruling becomes important to examine how the application of criminal law in dealing with online gambling which has special characteristics as a cyber-based transnational crime. In addition, this study also aims to provide an evaluation of the effectiveness of the implementation of the ITE Law in overcoming electronic gambling, as well as providing input for the renewal of the National Criminal Law to be more responsive to technological developments and the dynamics of increasingly complex digital crimes.⁸

2. Research Method

This study uses a normative juridical approach that aims to examine the application of legal norms relating to the crime of electronic gambling as stipulated in the Criminal Code (KUHP) and Law No. 11 of 2008 on information and electronic transactions that have been amended by Law No. 19 of 2016, and associated with the Medan District Court Decision No. 368/Pid.Sus / 2025 / PN Medan. normative juridical research is legal research that emphasizes the study of legislation, legal principles, doctrine, and relevant court rulings, without being bound to empirical data in the field. The type of research used is descriptive-analytical research, which aims to provide a systematic overview of the application of criminal provisions against electronic gambling crimes and analyze the legal considerations of the panel of judges in deciding a quo cases. This study seeks to uncover the accuracy of the application of the law by the panel of judges, analysis of the elements of criminal acts, and accuracy in evidence in accordance with the rules of criminal law and Criminal Procedure Law in Indonesia. The source of data in this study consists of secondary data, namely primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include related legislation, namely the Criminal Code, the ITE Law, as well as court decisions that are the object of study. Secondary legal materials in the form of legal literature, journals, books, as well as opinions of legal experts relating to electronic gambling and cybercrime. While tertiary legal materials in the form of legal dictionaries, legal encyclopedias, and other relevant supporting materials. The technique of collecting legal materials is carried out through the study of documents and the study of literature. The study of the document was carried out by reviewing the decision number 368/Pid.Sus/2025/PN Medan, while the literature study was conducted by reading and analyzing literature related to electronic gambling criminal law, cybercrime, and relevant criminal law theories. Analysis of legal materials is carried out by an analytical prescriptive method, that is, analyzing the provisions of applicable laws by linking them to legal facts in court decisions and assessing the appropriateness of the application of criminal law in the context of online gambling crimes. In this analysis, the study uses the approach of legislation (statute approach), case approach (case approach), and conceptual approach (conceptual approach). With this research method, it is expected that the research can provide

⁸ Abdul Gani, *Cybercrime dan Reformulasi Hukum Pidana Indonesia*, Yogyakarta: Deepublish, 2023, pp. 127.

academic contributions in developing law enforcement discourse against electronic gambling crimes in Indonesia and provide constructive recommendations for criminal law reform that is more responsive to information technology-based crimes.

3. Result and Discussion

3.1. Chronology Of Cases

In this case, the defendant was proven to operate an online gambling site by facilitating the public to play gambling types of poker, Slots, and football bets online. The defendant benefits in the form of commissions from the results of gambling transactions that take place on the platform he manages. The Modus operandi used is to provide gambling servers from abroad and market through social media to Indonesian citizens.⁹

- a) That on Wednesday, September 25, 2024 at around 20.00 Wib, located in a house on the Old Court Road. Aur District. Medan Maimun Medan City North Sumatra province defendant arrested for online gambling;
- b) That after selecting the game disitus judi online of the form the game matches the image on the box, and the columns of the boxes Crown, diamond, wine, prisai, sword, lion, lettering, numbers and others then place a bet and if the deposit increased balance means winning, and if the balance Deposit is not growing up and losing;
- c) That has been carried out a search which was found to be 1 (One) Vivo brand mobile phone unit type V1819 black with simcard 082371365883 and cash amounting to Rp 50.000, - (fifty thousand rupiah) then the witnesses brought the accused and M. What is the nature and M. Rizal Nasution als Rizal (each conducted a separate prosecution) to police station for further proceedings;
- d) That the defendant has absolutely no permission from the authorities to play the game;

Considering, that the defendant has been charged by the Public Prosecutor with charges in the form of alternative subsidiarity, so that the panel of judges by taking into account the above legal facts choose directly the first indictment as stipulated in Article 27 paragraph (2) and Article 45 paragraph (3) Law Of The Republic Of Indonesia Number 1 Of 2024 On Second Amendment To The Law Of The Republic Of Indonesia Number 11 Year 2008 on information and Electronic Transactions, whose elements are as follows: Any person and intentionally and without the right to distribute, transmit and or make accessible electronic information and / or documents electronics that have a gambling charge.

Elements In Considering: Elements Of Each Person

⁹ Mardani. *Hukum Kejahatan Siber di Era Digital*. Jakarta: Prenadamedia Group, 2025.

- a) Considering, that is meant by "everyone" juridically is pointing to the person as a subject of law that has been submitted to face of trial on the basis of a valid indictment and the person it can be criminally responsible ;
- b) Considering, that on the day and date set for in this case, the defendant has been charged with a misdemeanor based on a misdemeanor No. Reg. Perk: Pdm-06 / Rp.9 / Eku.2/01/2025 dated March 3, 2025;
- c) Considering, that after the tribunal examined the identity of the accused, has real that his identity is the same as the identity contained in Public Prosecutor's indictment ;
- d) Considering, that after the Assembly looked at the formal indictment public prosecutor, then it has been clearly meet the requirements of a syahnya indictment as provided for in Article 143 of the code of Criminal Procedure ;
- e) Considering, that during the trial, was not found the existence of reasons as stipulated in Article 44 of the criminal code on themselves Defendant, so therefore according to the Assembly that the defendant was able to criminally responsible for criminal acts committed
- f) Considering, that after the indictment was read in advance the trial, he was convicted of the accused ; Considering, that based on the foregoing, the Assembly The judge held that what is meant by anyone in the indictment of the public prosecutor is none other than the defendant named, M Juanda Als Juanda, so therefore the element of each person in this indictment it has been fulfilled on the defendant;

Elements In Considering: Elements intentionally and without the right to distribute, transmit and or make accessible electronic information and or electronic documents that have a charge gambling

- a) Considering, that based on the legal facts found dipersidangan that on Wednesday, September 25, 2024 there get information that there is online gambling going on in the street The Old Central Court. Aur District. Medan Maimun Medan City Sumatera Province North, next witness Muhammad Hamdan together with witness Togu Effendy Pakpahan, witness Ahmad Irfan and witness Billi Josua Siregar (as members Ditreskrimum North Sumatra Police) Monitoring and investigation to the location and approximately at 20: 00 pm witnesses saw the defendant and M. What is the nature and M. Rizal Nasution als Rizal (each conducted a separate prosecution) in suspicious gestures afterwards witnesses approached them;
- b) Considering, that at the time the witnesses approached the defendant, M. What is the nature and M. Rizal Nasution als Rizal (each conducted a separate prosecution) the witnesses conducted an examination and the search found 1

- (one) unit of Vivo brand mobile phone type V1819 black with simcard 082371365883 and cash of Rp 50.000, 00 (fifty thousand rupiah);
- c) Considering, that the way the defendant played the game in a way login on the website <https://11bolautama.net/> it then does deposit the balance then choose the online gambling game then choose the game online gambling site in the form of a game match the picture on the box, and the checkered columns depict crowns, diamonds, grapes, prisai, swords, Lions, letters, numbers and other then put up bet and if the deposit balance increases means winning, and if Deposit balance does not increase then lose;
 - d) Considering, that based on the description and consideration of the above then the panel of judges held that the element intentionally and without rights distribute, transmit and or make accessible electronic information and / or electronic documents that have a charge gambling so that the element has been fulfilled;
 - e) Considering, that because all elements of Article 27 paragraph (2) Jo Article 45 paragraph (3) of the law of the Republic of Indonesia Number 1 of 2024 On The Second Amendment To The Law Of The Republic Of Indonesia Number 11 Year 2008 on information and electronic transactions have been met, then the defendant must be declared to have been proven legally and convincingly committed a criminal offense as charged in an alternative indictment;
 - f) Considering, that in the trial, the panel of judges did not find things that can eliminate criminal liability, both as reason justifier and or excuse, then the defendant must take responsibility for his actions; Considering, that because the defendant is able to be responsible, then it must be found guilty and sentenced to a commensurate crime; Considering, that in this case against the defendant has subject to lawful detention, then the detention period must deductible in full from the penalty imposed; Considering, that because the defendant was detained and detention against the defendant based on sufficient grounds, it is necessary to establish that The accused remains in custody;

3.2. Legal Considerations Of The Panel Of Judges

The panel of judges considers that Article 27 paragraph (2) Jo Article 45 paragraph (3) of the law of the Republic of Indonesia Number 1 of 2024 On The Second Amendment To The Law Of The Republic Of Indonesia Number 11 Year 2008 on information and electronic transactions have been met, then the defendant must be declared to have been proven legally and convincingly committed a criminal offense as charged in an alternative indictment first next consider, that because the defendant was sentenced then must also be burdened to pay the costs of the case; pay attention, Article 27 paragraph (2) Jo Article 45 paragraph (3) Law Republic Of Indonesia Number 1 Of 2024 Concerning The Second Amendment To Law Of The Republic Of Indonesia Number 11 Of 2008 On

Information and Electronic Transactions and Law No. 8 of 1981 on Criminal Procedure Law and other legislation concerned.

Next in the decision decided:

- a) The defendant was found guilty and convicted guilty of committing a criminal offense "intentionally and without the right to play gambling electronic " as in the first alternative allegations
- b) Bring the defendant to M. Juanda Alias Juanda is above because that with imprisonment for 2 (two) years and 6(six) months, as well as a fine of Rp 10,000,000 .00 (ten million rupiah), provided that the fine is not paid replaced by imprisonment for 4 (four) months;
- c) Establish the period of arrest and detention that the defendant has undergone shall be wholly deducted from the penalty imposed; and ordered the accused remain in custody and establish evidence

This ruling reflects the progressive application of criminal law by combining the provisions of the Criminal Code and the ITE Law. The panel of judges not only judge from the side of conventional acts (gambling), but also consider the electronic aspect as a modus operandi. This is in line with the principle of criminal law that must be adaptive to technological developments. Nevertheless, this ruling has not touched upon additional criminal aspects in the form of confiscation of assets or permanent blocking of sites, which, in fact, has become an integral part in eradicating electronic gambling. In addition, from a cyber law perspective, a more comprehensive regulatory update is needed to deal with technology-based crimes that are cross-border in nature.

4. Conclusion

Electronic gambling is a form of transformation of gambling crimes that utilize the sophistication of Information Technology. In Decision No. 368/Pid.Sus / 2025 / PN Mdn, the elements of electronic gambling crime have been proven legally and convincingly based on relevant evidence. The panel of judges has applied the criminal law appropriately by combining the provisions of the Criminal Code and the ITE Law. However, in the context of complex cybercrime, more innovative enforcement measures, inter-agency collaboration, and regulatory revisions are needed to address the growing challenge of digital crime.

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