

# The Existence of Electronic Courts (E-Court) in Realizing Simple, Fast and Low-Cost Justice

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The Supreme Court Regulation of the Republic of Indonesia Number 3 of 2018 concerns the electronic administration of cases. It is intended to provide electronic court-based services. “E-Court” services include E-Filing (electronic case registration), E-Skum (calculation of electronic advance fee cases), E-Payment (electronic down payment in advance) and E-Summons (calling parties electronically). Through E-Court services, cases can be registered online, to assist litigants and advocates. It is relatively simple, fast and people do not have to come to court. In addition, E-Court services are cheaper. The bailiff does not need to go to the parties to deliver release, because people are called by email. To follow juridical forms, E-Court services must follow civil procedures such as provisions governing absolute and relative competence, provisions regarding procedures for calling parties, and other provisions.

**Key words:** *Electronic Court, Simple, Fast and Low Cost Justice.*

## Introduction

The rapid development of information technology requires proficiency in Information Technology (IT). The need for IT not only applies in economics but also in law. Especially in the face of the Industry 4.0 era now, almost all fields apply IT and are online. If in the world of commerce we are familiar with e-commerce, in the world of justice the Supreme Court of the Republic of Indonesia launched a trial system known as the Electronic Court (e-court).

Based on Article 2 paragraph (4) of Law Number 48 Year 2009, concerning Judicial Power, judicial power is carried out simply, quickly and at low cost. So to realize these principles, reform of court administration is needed to overcome obstacles and obstacles in the process of administering justice. In addition, current demands also require more effective and efficient administration of cases and court services.<sup>i</sup>

To address obstacles in the process of administering justice, the Supreme Court eventually issued the Republic of Indonesia Supreme Court Regulation No. 3 of 2018 concerning Case Administration in Electronic Courts (Electronic Courts Regulation). It aims at providing electronic-based court services (electronic court, abbreviated as e-court). The e-court application is an embodiment of the implementation of that Regulation. The Regulation is an innovation as well as a commitment to the Supreme Court in realizing reforms in the world of Indonesian justice (justice reform) that synergize IT with procedural law, to produce IT for the judiciary.<sup>ii</sup>

E-court is the future of Indonesian courts, and courts in other developed countries. If realized, the case administration process and court services will become simpler, faster, less expensive, transparent and accountable. Reflecting on the land of kangaroos (Australia), e-court became part of the process of modernizing case management. The initial idea of the birth of the e-court is actually the transformation of physical court case files into digital files. Although the Federal Court of Australia (FCA) has long implemented this electronic-based court service, leaving a paper-based system for handling cases is not easy. Therefore a change management strategy must be made in transitioning from a paper-based system to a paperless one.<sup>1</sup>

E-Court is intended to facilitate administration and justice. Every applicant / plaintiff or litigant represented by an advocate must come to court. Now, from the office or home, one can send an electronic claim registration. This system promotes speed and low costs in litigation. Furthermore, the payment of court fees is even more concise, because they are directed directly to the court account at the bank, through electronic payment.

However, to avoid juridical defects, E-Court services must adjust to civil procedural law. Such provisions govern absolute and relative competence, and the summoning of the parties for example.

Based on the legal issues above, a problem statement can be drawn, first: the scope of E-Court services in civil justice services. The second problem formulation is: Juridical consequences of the application of E-Court to the civil justice system.

This paper also discusses the procedure of E-Court services in Indonesia. With the enactment of E-Court, judicial services will hasten in accordance with the principles in civil procedural law, namely quick, simple and low-cost justice.

## **Discussion**

### ***The scope of E-Court services in civil justice***

The e-court application is an embodiment of the implementation of the Electronic Courts Regulation mentioned above. The e-court application is a centralized system. The application is located in the Indonesian Supreme Court Data Center which is integrated with the Case Tracking Information System (SIPP) in the First Level Court, so it does not need to be installed on each court server or website. Why? Because it will automatically be connected to the database on the Case Search Information System Application (SIPP) in each court that has implemented an e-court. For the time being, only advocates are registered users. Later arrangements will accommodate individual users and other legal entities. To register cases electronically an advocate must create an account / user on an e-Court application, with an electronic domicile validated by the High Court where the advocate is sworn in. After the account / user is activated, the advocate must complete the advocate data such as KTP, Advocate Member Identity Card, and Minutes of Oath which must be uploaded into the e-court application. Registered users can register cases electronically with a Court that has implemented an e-court, using 1 (one) registered and validated account on the Supreme Court e-court application. Electronic case registration will result in a barcode and registered online number (not the case number).<sup>iii</sup>

The following is an explanation of E-Court procedures, namely:

#### **a. E-filing**

E-filing is a central online case registration. It is carried out after registration as a user by selecting a District Court, Religious Court, or TUN Court that has actively conducted e-Court services. All registration files are sent electronically via the Mahkamah Agung RI e-Court application. The benefits of online case registration through the e-court application, obtained from this application are:

- 1) Save time and money in case registration.
- 2) Satisfaction of down payment costs can be done in multi-channel forms, or through various payment methods and banks.
- 3) Documents are well-archived and can be accessed from various locations and media.
- 4) Faster data retrieval process.

#### b. E-Skum

E-Skum is by registering an online case through e-Court. The Registrant will automatically get an Estimated Payment Fee (e-SKUM) and a Payment Number (Virtual Account) that can be paid through an electronic channel (Multi Channel). After the Registrant has made the payment according to the Estimated Fee (e-Skum), the Court gives a case number, on working days and hours. The e-Court application will then provide notification that the case has been registered with the Court.

#### c. E-Summons

E-Summons is a summons and Decision Notification delivered to the parties via electronic channels, to the email addresses of the parties. Information on the summons can be seen on the e-Court application.

#### d. E-Litigation

E-Litigation is an application that supports electronic court proceedings online, so that trial documents can be sent, such as Replicas, Duplicates, Answers and Conclusions electronically.

#### e. Electronic Verdict

The application contains information about the decision, the date of the decision. A copy of the electronic decision can be downloaded through this application.

Furthermore, there is E-Payment. It provides for the smooth running of the e-Court program of the Supreme Court, in cooperation with the Government Bank in managing a case down payment. The designated bank provides a Virtual Account (Payment Number) as a means of payment to the Court where the case is registered.

E-court can send and receive trial documents such as Replicas, Duplicates, Conclusions and/ or Answers. So after the case registration is verified, the applicant or claimant can know the case administration details, and the time of the first hearing. Previously many litigants have complained that the delivery of answers, replicas, duplicates, or conclusions is delayed for hours in court, because the judge hears other cases. Now, submitting the file need not involve coming to court. One can just submit online.

The e-court application is also an electronic summons to parties who have agreed to it, and to the plaintiff / applicant who registers electronically. They are considered as having agreed to use electronic channels for summonses. E-summonses are very concise and can cost zero rupiah. The calling system for litigants can be carried out directly to the electronic domicile, eliminating the need for delegation in the event that the parties reside in different areas. This system automatically reduces the frequency with which litigants need to meet judges. This

certainly minimizes extortion and corruption. It is hoped that this will maintain the court's integrity.<sup>iv</sup>

The e-court application can be accessed from anywhere, by anyone (as long as they have an account / user) armed with an internet connection and a device that has a web browser. The e-court application also improves the Ease of Doing Business (EODB) index for Indonesia, one point of which is the simplification of judicial proceedings. In addition, e-court aims to adjust the demands and development of technology and information, to realize a simple, fast, and low-cost court.

### **Juridical Consequences of E-Court Enforcement in the Civil Court System**

Justice seekers who have experienced obstacles in the matter of court proceedings are now expected to be able to better access justice, in accordance with civil procedural law principles. Civil procedural law applies the principle of fast, simple and low-cost justice. In adjudicating a case the judge must make every effort to settle the case, in not too long time and at a low cost.

"Simple" justice can be interpreted as that judges question litigants to get accurate information from the parties and witnesses, using simple and easily understood language. They try as much as possible to seek justice and peace. That occurs through judges providing litigants with information about the negative consequences of a court decision, which can be carried out by force, if the parties continue to defend their will and do not want to make peace. If there is no preliminary resolution of a case then the case will be resolved through a trial. In the peace efforts the judge endeavours to provide as much as counselling as possible, about the consequences if the case is if resolved through a trial. This touches and raises the awareness of litigating parties, especially those who feel they have violated their rights and harmed other parties, to resolve their dispute peacefully, before trial rather than by compulsion.<sup>v</sup>

If the two parties cannot resolve their differences, then a simple trial will be carried out (Article 130 HIR jo. Article 154 Rbg. Jo. Article 2 paragraph (4) of Law No. 48 of 2009 concerning Judicial Power). What is meant by the phrase "fast" in a trial, is that the judge in examining the litigating parties must strive for settlement, after there is accurate evidence from the parties and witnesses. The judge is required to immediately give a decision and not delay or held postpone the trial, to minimise the time between hearings.

If a judge implements justice in a way that is "simple and fast", especially by seeking peace and immediately providing a decision, the problem will be quickly resolved and the parties' costs will also be lighter. Vice versa if justice has not been implemented in a way that is "simple and fast". Then the litigating parties' costs will also be more, due to the defeated

party resisting the judge's decision. So that a trial can be carried out in a way that is simple, fast, and low cost, judges who resolve disputes must be professional and truly expert in their field, and full of wisdom in handling a case. Thus, a conclusion can be drawn that in the application of E-Court, in the world of Indonesian justice, realizes the principles prevailing in civil procedural law. This is certainly a very good renewal for the world of justice, launched by the Supreme Court of the Republic of Indonesia. However, an update is unlikely to be without consequences. In terms of the enactment of E-Court many parties have felt positive things, but on the other hand litigating parties must be more knowledgeable in information and technology. Therefore, this online-based E-Court information technology system must minimize network disruptions. Furthermore, court officials and users (parties) must be proficient in using IT, so that it does not conflict with civil procedural law and the maximization of E-Court benefits. In addition, the court clerk (Interpreter) must ensure that the parties have received their summonses electronically. The length of the day of the summon, with the day of the trial, must not be less than three days as stated in Article 122 HIR / 148 RBg. The user must always check and ensure that the electronic address is active, to be aware of and not miss a subpoena. If the user skips the subpoena, then:

- Plaintiff -> Death Plaintiff's Plaintiff (Plaintiff / his attorney does not attend the hearing even though he has been properly summoned -> Article 124 HIR;
- Defendant -> Case is decided without the presence of Defendant (verstek) -> Article 125 Paragraph (1) HIR, Article 73 Rv.

The application of case administration in court electronically, or the so-called e-court, has directly impacted advocates in Indonesia. The convenience provided in the advanced technology system e-court service system becomes a necessity in resolving cases in court where parties and legal advisors (advocates) are highly mobile. Advocates are required to have an official account by registering in the e-court system, to recognize their existence formally. Advocates who do not have e-court accounts will be hindered when defending clients in a number of courts. This accords with article 6 paragraph 2 of PERMA Number 3 of 2018 concerning Case Administration in Electronic Courts: "The Supreme Court has the right to refuse unregistered users". The e-court system is also outlined in the Decree of the Chief Justice of the Republic of Indonesia No. 122 / KMA / SK / VII / 2018 2018 concerning Guidelines for Registered User Governance System of Court Information and Decree of the Director General of the General Court of the Supreme Court of the Republic of Indonesia No. .271 / DJU / SK / PS01 / 4/2018, concerning Implementation Guidelines for Supreme Court Regulation No. 3 of 2018 concerning Case Administration in the Electronic Court. As is known, the Electronic Courts Regulation (PERMA E-Court) promulgated as of April 4, 2018 covers the administration of civil, religious civil, military administrative and state business matters. Proof of membership in an advocate organization and proof of official oath by the high court are key requirements for registration in accordance with article 4 paragraph 3

which reads: Requirements for being a registered user for an advocate are: a. KTP b. Advocate Membership Card; and c. Proof of official oath by the High Court. Since it was launched on June 6, 2018, the Indonesian court system has not yet given satisfaction to all parties.

This system reflects the spirit of justice which is simple, fast, and low-cost, but the purpose seems to be not yet fully felt. The enactment of e-court certainly provides a change in a clean justice system for people who want justice and legal certainty. Not a few members of the general public do not know how to settle a case in court. They of course need someone who is an expert in law, namely an advocate.

Technological sophistication requires lawyers to master IT, especially when litigating in the e-court system. It cannot be denied, the e-court system has not been categorized perfectly in its implementation. Advocates who have been registered in the membership data of advocate organizations, who are annually sworn by oath advocates in the high court and receive a copy of the minutes of oath, by being given a number issued by the high court, must do data collection again by registering again in the e-court system.<sup>vi</sup>

The Director General of the Supreme Court Badilum stated that the use of e-court services in case administration is based on the willingness of both parties. The online system is not compulsory. If one of the litigants refuses to use e-court services and files manually, the case will be tried by normal procedures. PERMA wants parties to choose whether to use the e-court system.

## **Conclusion**

The conclusions of the discussion above are as follows:

1. E-Court services as an online-based judicial service in registering civil cases, case down payments and summons of the parties have contributed in realizing a simple, fast and low cost court by utilizing advances in information technology.
2. Court Officers must ensure that the online service system has been implemented properly, from the case register to summoning the parties, to the electronic address (email and cell phone number) registered in accordance with the provisions of civil procedural law. Also, the User must always check and ensure that an active electronic address has been provided, to avoid a case of being dropped or terminated without the presence of the Defendant (verstek). Of course the E-Court service must refer to the provisions of the civil procedural law as stipulated in the HIR / RBg.



## Suggestion

1. It is necessary to develop an E-Court service system so that in the future it also applies to users not limited to advocates but also individuals who are not advocates;
2. Need to develop information and technology infrastructure, training and outreach to court officials and the public, to maximize the benefits of e-court services.



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<sup>i</sup>Peraturan Mahkamah Agung RI Nomor 1 Tahun 2019

<sup>ii</sup>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 28 Agustus 2019

<sup>iii</sup> ibid

<sup>iv</sup><https://www.hukumonline.com/berita/baca/lt5b4da2b0a0853/aplikasi-e-court-demi-peradilan-cepat-dan-biaya-ringan/>

<sup>v</sup><http://artikelddk.com/asas-sederhana-cepat-dan-biaya-ringan-hukum-acara-perdata/>, diakses pada tanggal 10 Agustus 2019

<sup>vi</sup>*Implementasi E-Court dan Dampaknya Terhadap Advokat Dalam Proses Penyelesaian Perkara di Indonesia* oleh Ika Atikah diakses pada tanggal 28 Agustus 2019