

Criminal Sanctions Related to Online Gambling in The Perspective of Law Number 1 Of 2024 Concerning Electronic Information and Transactions

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ABSTRACT

This study provides a comprehensive analysis of the legal framework governing online gambling, with a focus on Indonesia's Law Number 1 of 2024 concerning Electronic Information and Transactions (EIT Law). The research highlights the stringent criminal sanctions imposed under the EIT Law to deter illegal online gambling activities, reflecting the government's commitment to maintaining public order and morality in the digital realm. The study also emphasizes the importance of continuous updates to the legal framework to address evolving technological challenges and the need for international cooperation in combating transnational online gambling networks. Overall, the findings underscore the significance of clear legal definitions and a harmonized international approach to effectively regulate online gambling activities. As technology continues to advance, proactive measures in updating legal frameworks are essential to ensure robust regulation and enforcement in the digital age.

Keywords: *Criminal Sanction, Online Gambling, ITE.*

ABSTRAK

Penelitian ini memberikan analisis komprehensif mengenai kerangka hukum yang mengatur perjudian online, dengan fokus pada Undang-Undang Indonesia Nomor 1 Tahun 2024 tentang Informasi dan Transaksi Elektronik (UU ITE). Penelitian tersebut menyoroti sanksi pidana ketat yang dikenakan berdasarkan UU ITE untuk mencegah aktivitas perjudian online ilegal, yang mencerminkan komitmen pemerintah dalam menjaga ketertiban dan moralitas masyarakat di ranah digital. Studi ini juga menekankan pentingnya pembaruan berkelanjutan terhadap kerangka hukum untuk mengatasi tantangan teknologi yang terus berkembang dan perlunya kerja sama internasional dalam memerangi jaringan perjudian online transnasional. Secara keseluruhan, temuan ini menggarisbawahi pentingnya definisi hukum yang jelas dan pendekatan internasional yang harmonis untuk mengatur aktivitas perjudian online secara efektif. Seiring dengan kemajuan teknologi, langkah-langkah proaktif dalam memperbarui kerangka hukum sangat penting untuk memastikan peraturan dan penegakan hukum yang kuat di era digital.

Kata Kunci: *Sanksi Pidana, Judi Online, ITE.*

A. BACKGROUND

The proliferation of the internet and digital technologies has brought about significant changes in various aspects of human life, including the realm of gambling. Online gambling, in particular, has seen a dramatic rise, offering individuals the convenience of participating in gambling activities from virtually anywhere at any time. This phenomenon, while providing entertainment and potential financial rewards for some, also poses substantial legal and societal challenges. Recognizing these challenges, numerous countries have enacted legislation to regulate online gambling, aiming to curb its potential negative impacts. In Indonesia, one such legislative effort is encapsulated in Law Number 1 of 2024 concerning Electronic Information and Transactions (EIT Law).

Online gambling encompasses a wide range of activities, including but not limited to sports betting, casino games, poker, and lotteries conducted over the internet.¹ The ease of access to these platforms has led to an increase in participation rates, raising concerns about addiction, financial losses, and the potential for criminal activities. In response to these concerns, governments worldwide have sought to implement regulatory frameworks to control and monitor online gambling activities. Indonesia's EIT Law represents a critical component of the country's strategy to address these issues within its jurisdiction.²

Law Number 1 of 2024 concerning Electronic Information and Transactions is a comprehensive legal instrument designed to regulate various aspects of electronic information and transactions in Indonesia. The law aims to ensure the security and integrity of electronic transactions, protect personal data, and prevent cybercrimes. Within this broad framework, the law specifically addresses the issue of online gambling,

¹ González Bueso, V., Santamaría, J. J., Fernández Martínez, D., & Montero Alvarado, E. (2021). Preferences on online gambling activities among adolescents: A Review. *Journal of Psychiatry and Mental Disorders*, 6(1), 1-10.

² Ramadhani, F. (2023). Dinamika UU ITE Sebagai Hukum Positif Di Indonesia Guna Meminimalisir Kejahatan Siber. *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora*, 1(1), 89-97.

setting forth provisions that criminalize certain activities related to online gambling and prescribing sanctions for violations.



Figure 1. Types of online Gambling Games

Types of Online Gambling Games" refer to various variations of games that can be played online through online gambling sites. These types of games may include poker, QQ dominoes, online slots, blackjack, roulette, and many others. Users can choose the type of game they want to play according to their preferences. However, keep in mind that playing online gambling also comes with certain risks related to finances, privacy, and personal data security.

The inclusion of provisions related to online gambling in the EIT Law reflects the Indonesian government's recognition of the unique challenges posed by this form of gambling. Unlike traditional gambling activities, which are typically confined to physical locations such as casinos or betting shops, online gambling operates in a virtual space that transcends national borders.³ This characteristic makes it particularly difficult to regulate and enforce legal measures effectively. Consequently, the EIT Law seeks to establish a legal basis for addressing these challenges by defining what constitutes illegal online gambling activities and outlining the corresponding penalties.

One of the primary objectives of the EIT Law's provisions on online gambling is to deter individuals and organizations from engaging in

³ Brown, I., & Marsden, C. T. (2023). *Regulating code: Good governance and better regulation in the information age*. MIT Press.

or facilitating such activities.⁴ The law stipulates severe criminal sanctions for those found guilty of conducting or promoting online gambling. These sanctions include imprisonment, substantial fines, and other punitive measures aimed at curbing the proliferation of online gambling platforms. By imposing stringent penalties, the law seeks to create a strong deterrent effect, discouraging potential offenders from participating in or supporting online gambling operations.

Additionally, the EIT Law emphasizes the importance of international cooperation in combating online gambling. Given the transnational nature of online gambling platforms, effective regulation requires collaboration between countries to identify and prosecute offenders who operate across borders. The law encourages Indonesian authorities to work with international counterparts to exchange information, conduct joint investigations, and take coordinated actions against online gambling networks.⁵

Despite the comprehensive nature of the EIT Law's provisions on online gambling, several challenges remain in its implementation and enforcement. One significant challenge is the rapid evolution of technology, which constantly introduces new methods and platforms for conducting online gambling. As technology advances, so too do the tactics employed by those seeking to circumvent legal restrictions. This necessitates continuous updates to legal frameworks and enforcement strategies to keep pace with emerging trends in online gambling.

Another challenge lies in public awareness and education. Many individuals may not fully understand the legal implications of participating in online gambling or the risks associated with it. Public awareness campaigns are essential to inform citizens about the legal prohibitions on

⁴ Ramadhani, F. (2023). Dinamika UU ITE Sebagai Hukum Positif Di Indonesia Guna Meminimalisir Kejahatan Siber. *Kultura: Jurnal Ilmu Hukum, Sosial, Dan Humaniora*, 1(1), 89-97.

⁵ Maulana, M. F. (2023). *PERAN POLISI DALAM MENANGGULANGI TINDAK PIDANA PERJUDIAN ONLINE DI WILAYAH POLRESTA PATI* (Doctoral dissertation, Universitas Islam Sultan Agung Semarang).

online gambling and the potential consequences of violating these laws.⁶ Such campaigns can also highlight the dangers of addiction and financial harm associated with online gambling, thereby promoting responsible behavior.

The primary problem identified is the adequacy and effectiveness of the existing legal provisions in curbing online gambling, which has become increasingly prevalent due to advancements in technology and internet accessibility. The study examines whether the current sanctions stipulated in Law Number 1 of 2024 are sufficient to deter individuals and organizations from engaging in illegal online gambling activities. It also explores the challenges faced by law enforcement agencies in implementing these regulations, considering the often anonymous and cross-border nature of online transactions. Furthermore, the research seeks to identify any gaps or ambiguities within the law that may hinder its application and enforcement. By analyzing these issues, the study aims to provide recommendations for strengthening legal measures and improving the overall regulatory framework to more effectively combat online gambling and protect societal interests.

B. RESEARCH METHODOLOGY

The rapid proliferation of the internet has transformed various sectors, including the gambling industry. With the advent of online gambling platforms, there has been a significant shift in how gambling activities are conducted, raising critical questions about legal regulations and enforcement. In this context, a comprehensive analysis of statutory laws and comparative approaches becomes imperative to understand the

⁶ Kraus, L., Loy, J. K., Bickl, A. M., Schwarzkopf, L., Volberg, R. A., Rolando, S., ... & Cisneros Örnberg, J. (2022). Self-exclusion from gambling: A toothless tiger?. *Frontiers in psychiatry*, 13, 992309.

legal provisions governing online gambling and the associated criminal sanctions.⁷

This study employs a normative juridical methodology⁸ to delve into the legal intricacies surrounding online gambling.⁹ The normative juridical approach is primarily concerned with the examination of legislative texts, their amendments, and the comparative analysis of different legal systems. By scrutinizing statutory laws, this methodology aims to provide a clear understanding of the legal framework that regulates online gambling activities.

One of the core aspects of this study is the analysis of existing legislative texts.¹⁰ Legislative texts are the cornerstone of any legal system, providing the foundation for legal provisions and regulatory measures.¹¹ By examining these texts, the study seeks to uncover the specific legal provisions that govern online gambling. This includes identifying the definitions, scope, and limitations imposed by the law on online gambling activities.

Furthermore, the study explores the amendments made to these legislative texts over time. Amendments are crucial as they reflect the evolving nature of legal frameworks in response to emerging challenges and technological advancements.¹² By analyzing these amendments, the study aims to understand how legal provisions have adapted to address the complexities of online gambling.

⁷ Zhou, Y. (2021). *Comparative law of online gambling—legal and tax framework* (Master's thesis).

⁸ Indriati, E. D., & Nugroho, N. (2022). Philosophy of law and the development of law as a normative legal science. *International Journal of Educational Research and Social Sciences (IJERSC)*, 3(1), 314-321.

⁹ Budianto, A. (2020). Legal research methodology reposition in research on social science. *International Journal of Criminology and Sociology*, 9(1), 1339-1346.

¹⁰ Kerwin, C. M., & Furlong, S. R. (2018). *Rulemaking: How government agencies write law and make policy*. Cq Press.

¹¹ Areeda, P. E., Kaplow, L., Edlin, A. S., & Hemphill, C. S. (2021). *Antitrust analysis: problems, text, and cases*. Aspen Publishing.

¹² Reis, O., Eneh, N. E., Ehimuan, B., Anyanwu, A., Olorunsogo, T., & Abrahams, T. O. (2024). PRIVACY LAW CHALLENGES IN THE DIGITAL AGE: A GLOBAL REVIEW OF LEGISLATION AND ENFORCEMENT. *International Journal of Applied Research in Social Sciences*, 6(1), 73-88.

In addition to examining legislative texts and their amendments, this study also adopts a comparative approach.¹³ Comparative analysis involves comparing the legal provisions of different jurisdictions to identify similarities, differences, and best practices. This approach is particularly valuable in understanding how different legal systems address the issue of online gambling and the associated criminal sanctions.

The comparative approach enables the study to draw insights from various jurisdictions, providing a broader perspective on the legal regulation of online gambling. By comparing different legal frameworks, the study aims to identify effective regulatory measures that can be adopted to enhance the governance of online gambling activities.

One of the key findings of this study is the variation in legal provisions across different jurisdictions. While some countries have stringent regulations and criminal sanctions for online gambling, others have more lenient or even non-existent regulations. This disparity highlights the need for a harmonized approach to regulate online gambling at an international level.

The study also underscores the importance of clear and precise legal definitions in regulating online gambling. Ambiguities in legal definitions can create loopholes that may be exploited by unscrupulous operators. Therefore, it is essential for legislative texts to provide unambiguous definitions of online gambling activities and their associated terms.

By examining legislative texts, their amendments, and conducting comparative analysis, the study offers valuable insights into the legal provisions regulating online gambling and the associated criminal sanctions. The findings underscore the need for clear legal definitions and a harmonized international approach to effectively regulate online gambling activities in the digital age.

¹³ Rasmussen, H. (2024). *On law and policy in the European Court of Justice: a comparative study in judicial policymaking*. Martinus Nijhoff Publishers.

C. FINDING AND DISCUSSION

1. Criminal Sanctions for Online Gambling

Criminal sanctions for online gambling under the new Indonesian Criminal Code (KUHP) and Law Number 1 of 2024 concerning Electronic Information and Transactions (EIT Law) reflect a stringent regulatory framework aimed at curbing illegal gambling activities in the digital realm.¹⁴ The updated KUHP introduces specific provisions that criminalize the act of organizing, facilitating, or participating in online gambling, with penalties that may include imprisonment and substantial fines.

Complementarily, the EIT Law addresses the technological aspects by imposing sanctions on individuals and entities that use electronic systems to conduct or promote gambling activities. This dual legislative approach underscores the Indonesian government's commitment to maintaining public order and morality by leveraging both traditional criminal law and modern cyber regulations to tackle the pervasive issue of online gambling.¹⁵

The synergy between these legal instruments ensures comprehensive coverage, targeting not only the perpetrators but also those who provide the technological infrastructure for such illicit activities.¹⁶ The enforcement of these laws is expected to involve rigorous monitoring and collaboration between law enforcement agencies and cyber security experts to effectively dismantle online gambling networks and prosecute offenders.

¹⁴ Aziza, D. A. (2023). Information and technology law implementation on enforcing criminal sanctions for online gambling. *Indonesian Journal of Multidisciplinary Science*, 3(3), 249-255.

¹⁵ Suryanto, S. O., & Mulyana, A. (2024). Legal Challenges in Overcoming Changes in Social Behaviour Due to the Development of Technology and Information. *Golden Ratio of Law and Social Policy Review*, 3(2), 84-96.

¹⁶ Delerue, F. (2020). *Cyber operations and international law* (Vol. 146). Cambridge University Press.

2. Comparative Analysis for EIT Legal Framework

A comparative analysis of the legal framework for the European Institute of Innovation and Technology (EIT) necessitates an examination of its regulatory environment in relation to similar institutions across various jurisdictions.¹⁷ The EIT, established under EU regulation, aims to foster innovation and entrepreneurship within Europe by integrating the knowledge triangle of education, research, and business. Key aspects to consider include the governance structure, funding mechanisms, intellectual property policies, and the extent of autonomy granted to Knowledge and Innovation Communities (KICs).

A thorough comparison with other international innovation bodies, such as the National Science Foundation in the United States or Japan's Innovation Network Corporation, reveals differences in operational mandates, stakeholder engagement, and strategic priorities.¹⁸ For instance, while the EIT emphasizes cross-border collaboration and regional development, other entities may focus more on national interests or specific technological advancements. Understanding these distinctions is crucial for policymakers to enhance the EIT's effectiveness and adaptability in a rapidly evolving global innovation landscape.

The legal framework for Electronic Information and Transactions (EIT) in Indonesia presents a robust structure aimed at regulating the digital landscape within the country. This framework is primarily governed by Law No. 11 of 2008 on Electronic Information and Transactions, which has been amended by Law No. 19 of 2016. The legislation addresses various aspects of electronic transactions,

¹⁷ Vogenauer, S. (2013). Regulatory competition through choice of contract law and choice of forum in Europe: theory and evidence. *European Review of Private Law*, 21(1).

¹⁸ Intarakumnerd, P., & Goto, A. (2018). Role of public research institutes in national innovation systems in industrialized countries: The cases of Fraunhofer, NIST, CSIRO, AIST, and ITRI. *Research Policy*, 47(7), 1309-1320.

including information security, electronic signatures, and cybercrime. A comparative analysis reveals that Indonesia's EIT legal framework aligns with international standards, such as those set by the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce.¹⁹ However, there are unique features tailored to the Indonesian context, such as specific provisions for the protection of personal data and stringent measures against online defamation and misinformation. Additionally, the implementation of the EIT law is supported by various government regulations and ministerial decrees, which provide detailed guidelines for compliance and enforcement. Despite these comprehensive measures, challenges remain in terms of enforcement efficacy and public awareness. Continuous updates and reforms are necessary to address emerging digital threats and to ensure that the legal framework remains relevant in an ever-evolving technological landscape.

Law No. 11 of 2008 concerning Electronic Information and Transactions (EIT Law) marked a significant milestone in regulating digital activities in Indonesia. This law aimed to address various issues related to electronic information, including cybercrimes such as online gambling. However, with the rapid evolution of technology, there was a need to update and refine the legal provisions to keep pace with emerging challenges.

In response to these developments, Law No. 19 of 2016 was enacted as an amendment to Law No. 11 of 2008. This amendment sought to enhance the regulatory framework by introducing stricter provisions and expanding the scope of criminal sanctions for cybercrimes, including online gambling.

¹⁹ Widiarty, W. S., & Kamal, A. H. M. (2022). Legal Horizons in Global Commerce: Sovereign Dynamics, State-Owned Enterprises, and Dispute Resolution Approaches in International Law. *International Journal of Law Reconstruction*, 6(2), 299-316.

Law Number 1 of 2024 represents the latest legislative effort to address the complexities of electronic information and transactions. This law builds upon the foundation laid by its predecessors, incorporating advancements in technology and addressing new forms of cybercrimes. One of the key areas of focus in this law is the regulation of online gambling and the imposition of criminal sanctions on offenders.²⁰

3. Judicial Processes and Cybersecurity Crime in Indonesia

Under Law No. 11 of 2008 as amended by Law Number 19 of 2016 in Article 45 Paragraph 2 of the ITE Law, it is stated that every person who intentionally and without authorization distributes, transmits or makes accessible electronic information containing gambling content may be subject to criminal charges. Online gambling was explicitly prohibited, and individuals found guilty of engaging in such activities were subject to criminal sanctions. Article 27(2) of the law stated that any person who knowingly distributes, transmits, or makes accessible electronic information that contains gambling content could face imprisonment for up to six years and/or a fine of up to IDR 1 billion.

The judicial process in cyber crime cases in Indonesia involves several stages starting from investigation by the police to court.²¹ The first stage is investigation and investigation, where the police collect initial evidence regarding suspected cyber crimes.²² If there is sufficient evidence, the case continues to the investigation stage with the help of digital forensics experts to analyze electronic devices and related data. The next stage is prosecution, where the case file is submitted to the prosecutor's office to prepare charges based on the

²⁰ Binde, P., Cisneros Örnberg, J., & Forsström, D. (2022). Criminogenic problem gambling: a study of verdicts by Swedish courts. *International Gambling Studies*, 22(3), 344-364.

²¹ Sukardi, S. (2022). Reconstruction of financial crime investigation methods in law enforcement in the era of the industrial revolution 4.0. *Unnes Law Journal*, 8(1), 133-158.

²² Edwards, G. (2019). *Cybercrime investigators handbook*. John Wiley & Sons.

evidence that has been collected and then brought to court. At trial, the judge hears testimony from witnesses, digital forensics experts, and the defendant, with digital evidence often being the main focus. Finally, if the defendant is found guilty, the judge will impose a sentence in accordance with the provisions of the ITE Law and other regulations, which can take the form of imprisonment, fines, or other measures deemed necessary to provide a deterrent effect.

D. CONCLUSION AND RECOMMENDATIONS

1. Conclusion

In conclusion, Law Number 1 of 2024 concerning Electronic Information and Transactions represents a significant step by the Indonesian government to address the complex issue of online gambling within its jurisdiction. By defining illegal online gambling activities and prescribing stringent sanctions for violations, the law aims to deter participation in such activities and protect society from their negative impacts. However, effective implementation and enforcement require continuous adaptation to technological advancements and proactive public education efforts. Through international cooperation and comprehensive regulatory measures, Indonesia strives to combat the challenges posed by online gambling and uphold the integrity of its legal framework in the digital age.

2. Recommendation

As technology continues to evolve, it is imperative for legislative bodies to remain vigilant and proactive in updating legal frameworks to ensure effective regulation and enforcement in the digital realm. The ongoing efforts to address online gambling through comprehensive legislation serve as a testament to the commitment towards creating a safer and more secure digital environment for all.

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