

E-Court Implementation In Civil Cities Jurisdiction In The Covid-19 Pandemic Time

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ABSTRACT

In this scientific paper report, it discusses the implementation of e-Court in civil court cases during the Covid-19 pandemic. There are still many parties who do not understand and see how e-Court is in a civil case. In the current digital era, the Supreme Court also supports government programs by minimizing direct contact, avoiding crowds, and using online or online media in court operations manifested in e-Court. Prior to the Covid-19 period, there were already several civil courts using e-Court, but not many cases were tried using the e-Court application so that the parties prefer to hear conventionally. With this pandemic period, it is hoped that the Supreme Court will further encourage the litigant to use e-Court so that the rights of the people to seek justice can still be fulfilled despite the conditions of the Covid-19 pandemic. Because the e-Court application is a program that utilizes technology applications, the Supreme Court should provide education and outreach to judges, court staff, advocates, and the general public regarding and procedures for proceeding with civil cases by e-Court.

Keyword: e-Court, civil case, Covid-19.

1. INTRODUCTION

The 1945 Constitution confirms that Indonesia is a constitutional state. In line with these provisions, one of the principles of a rule of law is the guarantee of the implementation of judicial power that is free from the influence of other powers in order to enforce law and justice.¹ Indonesia is a constitutional state as regulated in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, so it is evident that the patterns of public behavior in all aspects of life are regulated in a law applicable in Indonesia.² These laws can be distinguished according to their contents, namely:³

1. Private law (Civil Law) is a law that regulates the relationship between one person and another with an emphasis on individual interests. For example, Civil Law.
2. Public law (State Law) is the law that regulates the relationship between the state and equipment or its citizens. For example, Constitutional Law and State Administrative Law.

¹ Basiq Djalil, *Peradilan Agama di Indonesia*, Kencana, Jakarta, 2017, h. 9.

² Hanafi Arief, *Pengantar Hukum Indonesia dalam Tataran Historis, Tata Hukum dan Politik Hukum Nasional*, PT. LKIS Pelangi Aksara, Yogyakarta, 2016, h. 43.

³ Sri Warjiyati, *Memahami Dasar Ilmu Hukum: Konsep Dasar Ilmu Hukum*, Prenadamedia Group, (2018), Jakarta, h. 50.

Civil law is a law that regulates the rights and obligations of parties in a civil law relationship. In the practice of law and justice, legal teachings or theories that deserve to be followed are also considered, which are supportive in the world of justice so that judges and legal advisors and justice seekers themselves need to be heeded. It is hoped that the provisions contained in the law, but also how the legal practice is carried out in handling a civil case..⁴

Civil law according to its function is divided into material law and formal law.⁵ Material law is a law that regulates the rights and obligations between legal subjects regulated in the Civil Code (hereinafter referred to as the KUHPer). Meanwhile, formal law is a law that regulates how material law can be maintained and implemented properly. Formal law is often referred to as procedural law. Every legal subject who feels a loss for a certain legal action, then the legal subject can file a lawsuit or request through the court (litigation) or resolve a problem outside the court (non-litigation). This also applies to other laws, both criminal law and state administrative law requiring a judiciary to overcome problems that occur in society and there are also several special courts that examine, adjudicate, decide, and resolve certain cases and are addressed to people certain.

The trial order for civil cases at the District Court is as follows :⁶

1. The session is declared opened and open to the public.
2. The parties (the plaintiffs and defendants) were ordered to enter the courtroom;
3. The identity of the parties (power of attorney) is checked, as well as the license to practice from an advocate organization;
4. If both parties are complete, they are given the opportunity to settle the case amicably;
5. Whether to use a mediator from the PN environment or from outside (vide PERMA RI No.1 of 2008);
6. If no peace agreement is reached, the trial is continued with the reading of the lawsuit by the plaintiff / his attorney;
7. If the peace is successful, it will be read out in the trial in the form of a peace deed with the title FOR JUSTICE BASED ON YME DEVELOPMENT;
8. If there is no change in the procedure then the answer from the defendant; (the answer contains an exception, rebuttal, a petition for a provisional decision, a lawsuit for reconstruction);

⁴ Abdulkadir Muhammad, *Hukum Acara Perdata Indonesia*, PT Citra Aditya Bakti, Bandung, 2015, h. Xi-xii.

⁵ M. Bakri, *Pengantar Hukum Indonesia: Pembidangan dan Asas-asas Hukum Jilid 2*, UB Press, Malang, 2013, h. 196.

⁶<https://pn-karanganyar.go.id/main/index.php/tentang-pengadilan/kepaniteraan/kepaniteraan-perdata/813-tata-urutan-persidangan-perkara-perdata>, diakses pada tanggal 26 September 2020.

9. If there is a lawsuit for reconstruction, the defendant also has the position of being the plaintiff for reconvention;
10. Replic from the plaintiff, if he is being sued for reconciliation then he / she has the position of a reconvention defendant;
11. At the time of correspondence (answer jinawab) there is a possibility of a lawsuit for intervention (voeging, vrijwaring, toesenkomst);
12. Before proving there is a possibility that an interlocutory decision will appear (a provisionile decision, a decision regarding the grant of absolute exceptions, or a lawsuit for intervention);
13. Evidence;
14. Starting with the plaintiff, in the form of evidence and witnesses;
15. To be followed by the defendant in the form of evidence and witnesses;
16. If it concerns land, a local inspection is conducted;
17. Conclusion;
18. Deliberation by Panel of Judges (confidential);
19. Reading of the Decision;
20. Contents of the Verdict :
 - a. The Lawsuit was granted.
 - b. The Lawsuit was reject.
 - c. The Lawsuit can't be accepted.
21. Upon this decision, the parties are informed of their rights whether to accept, think about or will appeal. If you think about it, you are given 14 days;
22. In the event that a party is absent, it is notified in advance and within 14 days after the notification is given the right to determine a position. If the period of 14 days does not determine an attitude then it is considered to accept the decision.

The procedure for proceeding with civil cases in the District Court that has been described must be attended by the parties in the case at the District Court so that the parties meet and meet face to face and in the end the judge renders the decision fairly as possible.

As is well known by the general public, the COVID-19 pandemic causes changes in normal mechanisms, namely: avoiding crowds and crowded places, maintaining distance, using masks, minimizing people to interact directly, and so on. With the COVID-19 pandemic, the civil case trial process cannot be carried out in general. In connection with the COVID-19 pandemic, the Supreme Court through the Supreme Court Circular Number 1 of 2020 concerning Guidelines for Implementation of Tasks during the Prevention Period for the Spread of Corona Virus Disease (COVID-19) within the Supreme Court and the Judiciary Bodies under it. According to the Edara Letter of the Supreme Court No.1 of 2020, judges and judicial officials can carry out official duties

by working in their home / residence (work from home / WFH). The Work From Home / WFH includes the implementation of trial administration using the e-Court application, the implementation of trials using e-Litigation, coordination, friendship, and other official duties.

After the Supreme Court issued the Supreme Court Regulation (PERMA) Number 3 of 2018 concerning administration in court electronically on March 29, 2018, it is something that is done to fulfill the principles of justice, namely simple, fast, and low cost. With the e-court system service as a tool provided to assist the community in the process of registering cases in court. However, currently the e-court service system can only be implemented for advocates or legal advisors who have received validation from the Indonesian Supreme Court.

The Importance of Enforcing the Covid-19 Protocol

The Director General of Badilag (Religious Courts) spoke about the conditions of the spread of Covid-19 in Indonesia and how the Supreme Court's policies were to address it. The obstacle faced is the number of cases currently being handled, especially in the religious courts, so it needs a gradual handling and approach so that there is no confusion and accumulation of cases which results in obstruction of the legal rights of the community, besides that every region in Indonesia has regional characteristics and community density. different levels so that the status of the spread of Covid-19 has various levels, so that an approach is needed that must be adapted to each region. The Supreme Court is fully committed to upholding the standards for handling and preventing the spread of Covid-19 that have been set by the government.⁷

The policy of the Supreme Court of the Republic of Indonesia through Circular Number 1 of 2020 concerning Guidelines for Implementing Tasks During the Prevention Period for the Spread of Corona Virus Disease 2019 (Covid-19) within the Indonesian Supreme Court and the judiciary under it instructs the court to make adjustments to the work system guided by Circular of the Minister of Administrative Reform and Bureaucratic Reform, in which judges and judicial officials can carry out official duties by working at home / residence (work from home).⁸

SEMA explained that working at home is an activity to carry out official duties, including the implementation of court administration using the e-Court application and the implementation of trials using the e-Litigation application, coordination, meetings and other official duties. For cases where the period of examination is limited by statutory provisions, the Judge may postpone his examination even though the examination period is exceeded which is limited by statutory

⁷ <https://badilag.mahkamahagung.go.id/seputar-ditjen-badilag/seputar-ditjen-badilag/bagaimana-pengadilan-menghadapi-pandemi-covid19-diskusi-virtual-ditjen-badilag-dan-family-court-of-australia>, diakses pada tanggal 27 September 2020.

⁸ *Ibid.*

provisions with an order to the Substitute Registrar to record in the Minutes of Session any extraordinary circumstances based on this circular letter.⁹

In the event that there are cases that still have to be tried, then the trial suspension and restrictions on court visitors is the authority of the panel of judges to determine, the panel can limit the number and safe distance between court visitors (social distancing) and can order body temperature detection and prohibit physical contact such as shake hands for the parties who will be present or presented at the trial.¹⁰

The Court Must Keep Going

Judy Ryan as a senior judge at the Family Court of Australia and coordinating overseas cooperation conveyed several things, namely :¹¹

1. Courts need to remain open, particularly to protect vulnerable people. Globally, women, children, and the elderly will be strongly affected by Covid-19, so lawsuits will remain numerous. It is important for courts to create a healthy work environment for judges and staff. Courts must set an example and communicate between fellow courts both at home and abroad to share experiences. In addition, it is important that the priority scale of case handling be carried out. The urgency of applying in court to protect persons from groups who face or are likely to face increased risk of violence, abuse or neglect.
2. The need for information about cases and court processes to be provided online or by telephone, maximizing court websites and social media, reducing direct registration hours, optimizing Call Center services, directing all case registrations to the online e-Court system, maximizing legal assistance for the community poor. This condition forces them to be more familiar with IT devices in working and communicating, while the obstacle faced is the unequal ability of judicial officers, especially judges and other technical personnel in controlling IT. Therefore, it is necessary to accelerate the use of IT projects in courts and to be accompanied by online training for judges and court staff. The use of IT will provide great benefits for the court user community to get all the information needed regarding cases in court.
3. Trial practice in court must be modified in such a way that at the same time it meets the safety standards set by the government and meets the basic principles of trial procedure law.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ <https://badilag.mahkamahagung.go.id/seputar-ditjen-badilag/seputar-ditjen-badilag/bagaimana-pengadilan-menghadapi-pandemi-covid19-diskusi-virtual-ditjen-badilag-dan-family-court-of-australia>, diakses pada tanggal 27 September 2020.

The Start of The Electronic Trial (e-Court)

The Supreme Court in terms of reopening legal product sheets that have been issued, namely the Supreme Court Regulation Number 1 of 2019 concerning Electronic Court Case Administration. This PERMA is very appropriate to be implemented especially in the condition of the Covid-19 virus outbreak which is increasingly worrying the Indonesian people. So video or web conferencing can be an effective means of holding hearings by the District Court, Attorney General's Office, or the Detention Center. This pattern of electronic justice or known as e-court is an effective breakthrough that can be carried out by courts in Indonesia based on the PERMA issued by the Supreme Court.¹²

This Supreme Court Regulation Number 1 of 2019 also refers to Law Number 11 of 2008 concerning Electronic Information and Transactions, which was later amended into Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Transactions. Electronic.¹³ In accordance with this Supreme Court Regulation, case administration services electronically can be used by lawyers and registered individuals, which will be further regulated in a Decree of the Chief Justice of the Supreme Court. Then the electronic case administration arrangements in this regulation apply to cases of Civil, Civil Religion, Military Administration and State Administration cases. In Law Number 48 of 2009 concerning Judicial Power, it is stated that the trial is carried out simply, quickly and at low cost. Therefore, to make this happen, it is necessary to carry out reforms to overcome obstacles and obstacles in the process of judicial administration. Besides having to have administrative services effectively and efficiently, of course. Therefore it is deemed necessary to carry out the trial electronically or e-court in order to fulfill the administrative service effectively and efficiently.¹⁴

Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2018 concerning Case Administration in an Electronic Court which is subsequently declared invalid by Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2019 concerning Electronic Case Administration and Trials in Courts is a concrete form of technological development in the Court. The Supreme Court Regulation (PERMA) is a regulation issued by the Supreme Court as part of the state administrative power, to regulate and carry out government tasks in the judiciary. Supreme Court regulations function as legal gaps and complement legal gaps.¹⁵

¹² RR. Dewi Anggraeni, Wabah Pandemi Covid-19, Urgensi Pelaksanaan Sidang Secara Elektronik, ISSN : 2338 4638, Volume 4 Nomor 1, 2020, h. 8.

¹³ *Ibid.*, h. 9.

¹⁴ *Ibid.*

¹⁵ Fauzan, *Peranan PERMA & SEMA Sebagai Pengisi Kekosongan Hukum Indonesia Menuju Terwujudnya Peradilan yang Agung*, Kencana, Jakarta, 2015, h. Vii.

The beginning of the e-court application program in Indonesia as a form of reform towards the administration of cases in the courts in Indonesia, so that people in Indonesia can use law enforcement channels according to state administrative institutions in solving problems. Judiciary is carried out for the sake of justice based on the Almighty Godhead, Justice is carried out simply, quickly, and at low cost, All interference in judicial affairs by other parties outside the judicial power is prohibited, except in cases as stated in the Constitution of the Republic of Indonesia. Indonesia 1945. Everyone who deliberately violates the provisions which are the affairs of the court outside the judicial authority shall be sentenced.¹⁶

The beginning of the e-Court application is inseparable from the Supreme Court Regulation Number 3 of 2018 which was later revoked and appointed a replacement, namely the Supreme Court Regulation Number 1 of 2019. Supreme Court Regulation Number 03 of 2018 is an innovation as well as a commitment for the Supreme Court of the Republic of Indonesia in realizing reform in the Indonesian judiciary (Justice reform) which synergizes the role of information technology (IT) with procedural law (IT for Judiciary).¹⁷

This Supreme Court regulation is also the foundation for the implementation of the e-Court application in the Indonesian judiciary, so that the judiciary has the authority to accept case registrations and receive electronic court fee down-payment payments. Substantially, the Supreme Court Rule does not delete or annul the prevailing norms, but rather adds or improves it.¹⁸

e-Court is an electronic judiciary which is expected to achieve its objectives in the administration of justice which is of course in accordance with the principles of a simple, fast and low cost trial.¹⁹ e-Court is intended for cases of Civil, Civil Religion, Military Administration and State Administration at the first level, appeal, cassation and review. e-Court greatly accelerates the completion of a civil case by litigation because many cases are included in the general court and of course many regulations have been enacted to simplify and speed up the process of resolving the cases that have been submitted.

Electronic Trial Regulation (e-Court)

What is meant by electronic case administration is a series of processes for accepting claims / requests, answers, replications, duplicates and conclusions, managing the submission and

¹⁶ Pasal 4 UU Nomor 4 Tahun 2004 Tentang Kekuasaan Kehakiman

¹⁷ Ditjenmiltun Mahkamah Agung RI, *E-Court, Era Baru Beracara di Pengadilan*, <https://www.pt-bengkulu.go.id/berita/e-court-era-baruberacara-di-pengadilan>, di akses pada tanggal 26 September 2020.

¹⁸ Mahkamah Agung RI, *e-Court, Era Baru Beracara di Pengadilan*, http://ditjenmiltun.mahkamahagung.go.id/index.php?option=com_content&view=article&id=2816:e-court-era-baru-beracara-dipengadilan&catid=114:umum diunduh pada tanggal 02 Oktober 2018

¹⁹ Pemerintah Indonesia, *Peraturan Mahkamah Agung tentang Administrasi Perkara dan Persidangan di Pengadilan secara Elektronik*, Peraturan Mahkamah Agung Nomor 1 Tahun 2019, BN No. 894, Pasal 3 ayat (1) & (2).

storage of civil / religious / military administration / state administration documents using the applicable electronic system in each. court environment. Based on the provisions in this Supreme Court Regulation, an e-court system is created, which is a court instrument as a form of service to the public in terms of online case registration, online payment, sending trial documents (replicas, duplicates, conclusions, answers), and online summons.²⁰ The scope of the e-court application consists of several types of administrative services, namely:

a. e-Filling (online case registration)

Online Case Registration in the e-Court application is currently open for new types of registration for lawsuit cases, rebuttals, simple claims, and applications. Registration of this case is a type of case registered in the General Court, Religious Court and State Administrative Court which requires more effort or effort in registration, and this is the reason for making an e-Court, one of which is the ease of doing business. The advantages of registering cases online through the e-Court application that can be obtained from this application are :²¹

1. Save time and cost in the case registration process.
2. Paymen of down payment which can be made in multi-channels or from various payment methods and banks.
3. Documents are well achived and can be accessed from various locations and media.
4. Faster data retrieval process

b. e-Payment (online advance payment).

In case registration, registered users will immediately get SKUM generated electronically by the e-Court application. In the generate process, it will be calculated based on what Cost Components have been determined and configured by the Court, and the Radius Fee which is also determined by the Chief Justice so that the calculation of the estimated down-payment costs has been calculated in such a way and produces an electronic SKUM or eSKUM. Registered User after receiving the Down Payment or e-SKUM will receive a Payment Number (Virtual Account) as a virtual account for the payment of the Down Payment Fee.²²

c. e-Summons (calling the parties online).

In accordance with PERMA Number 1 of 2019 in lieu of PERMA Number 3 of 2018 that summons whose registration is made using e-Court, then summons to Registered Users are made electronically which is sent to the registered user's electronic domicile address. However, for the defendant the first summons is done manually and when the defendant is present at the

²⁰ Pasal 1 angka 6 Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2019 tentang Administrasi Perkara Dan Persidangan Di Pengadilan Secara Elektronik

²¹ Mahkamah Agung Republik Indonesia, *Buku Panduan E-COURT (The Electronic Justice System)*, 2019, h. 7.

²² *Ibid.*

first trial will be asked for approval whether to agree to the summons electronically or not, if agreed, the defendant will be summoned electronically in accordance with the electronic domicile given and if not agree that the call is done manually as usual.²³

d. Electronic Trial (e-Litigation).

Article 4 PERMA Number 1 of 2019 states that the electronic trial in this regulation applies to the trial process by submitting a lawsuit / application / objection / objection / resistance / intervention along with its amendments, answers, replicas, duplicates, proofs, conclusions and pronouncements of decisions / decisions. The meaning of this article is that the e-Court application also supports electronic proceedings so that trial documents can be sent such as Replik, Duplicate, Conclusions and / or Answers electronically which can be accessed by the Court and the parties.²⁴

Regarding a copy of the court decision or order issued electronically and then sent to the parties no later than 14 days after the verdict or decision is pronounced. Whereas for bankruptcy or PKPU cases, a copy of the court's decision or order is sent no later than 7 days after the decision or decision is pronounced. PERMA No.1 of 2019 also clearly states that case information in the Court Information System (SIP) has the same legal force as the case register book as referred to in legislation.²⁵

2. CONCLUSION

Based on the explanation above, the authors conclude that :

1. With the existence of the Supreme Court Regulation of the Republic of Indonesia Number 3 of 2018 which was later amended by the Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2019 concerning the Administration of Cases and Trials at Courts electronically is a clear proof that the judicial system in Indonesia is very prepared for the covid-outbreak. 19, so that it also supports government programs in reducing the growth rate of the spread of covid-19. With the existence of this e-Court mechanism, every case is tried without the need to be present in court so that it can suppress direct interaction between the parties in a case.
2. Not all judges, court staff employees, advocates, and the general public are familiar with the information technology system implemented by the e-Court application so that the Supreme Court needs to provide online counseling on the procedures and mechanisms of e-Court so that case channels are not clogged with restrictions social Covid-19 and the general public still get legal certainty.

²³ *Ibid.*, h. 8.

²⁴ *Ibid.*

²⁵ RR. Dewi Anggraeni, *Loc. Cit.*, h. 11

3. The court with the e-Court system is not only able to suppress the growth of Covid-19 but is also a serious proof of the Supreme Court in implementing Article 2 paragraph (4) of Law Number 48 of 2009, namely the principle of simple, fast, and low cost judicial administration. There have been many policies issued and implemented by the Supreme Court to encourage the implementation of these principles. Currently litigants or the general public can conduct case searches through the SIPP (Case Tracking Information System) so that an open schedule of hearings is known.

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