

Effectiveness of Criminal Sanctions Against Online Gambling Service Providers Through the Electronic Information and Transactions Law

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Abstract. *In this era of globalization, technology is growing bigger, technology can have positive and negative effects depending on its users. In promoting online gambling, site owners usually advertise their online gambling sites to internet users. This is the dissemination and development of online gambling sites to grow rapidly. This study aims to examine and analyze Online Gambling Service Providers Through the Electronic Information and Transactions Law at Sub-Directorate V/Tipidsiber, Directorate of Special Criminal Investigation, Central Java Regional Police, and the Effectiveness of Criminal Sanctions Against Online Gambling Service Providers Through the Electronic Information and Transactions Law at Sub-Directorate V/Tipidsiber, Directorate of Special Criminal Investigation, Central Java Regional Police. The research method used is the sociological juridical research method, which is an approach based on binding norms or regulations, so that it is expected that from this approach it can be known how the law which is empirically a symptom of society can be studied as a causal variable that causes consequences in various aspects of social life. This study was studied using three theories, namely the theory of legal effectiveness, the theory of legal systems, the theory of law enforcement, Based on the research, it was concluded that the Locus was in Surakarta Regency and Tempus was the time when the Ditreskrimsus Polda Jateng received information from the public during the investigation that there was an alleged internet cafe in the Central Java Jurisdiction, namely on September 15, 2021. The effectiveness of the criminal sanctions imposed by Article 27 to Article 33 as referred to in Article 50 in conjunction with Article 34 paragraph (1) of the Republic of Indonesia Law Number 11 of 2008 and its amendments to the Republic of Indonesia Law Number 19 of 2016 concerning Information and Electronic Transactions and/or Any person intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic*

Documents that contain gambling content as referred to in Article 45 paragraph (2) in conjunction with Article 27 paragraph (2) of the Republic of Indonesia Law Number 19 of 2016 amendments to the Republic of Indonesia Law Number 11 of 2008 concerning Information and Electronic Transactions.

Keywords: *Criminal; Effectiveness; Gambling; Online; Sanctions.*

1. Introduction

The rapid development of society is accompanied by the influence of globalization, this development is always followed by a process of self-adjustment which sometimes occurs unbalanced. In other words, violations of these norms are increasingly frequent and crimes are increasing, both in type and pattern are increasingly complex. The development of society is caused by the increasingly advanced science and mindset of society. Society tries to make innovations in all fields. However, technological advances do not always have a positive impact but sometimes also have a negative impact.

Current information and communication technology has changed the order of people's lives and human civilization globally, with the existence of the internet which was previously unknown to humans, now a world is formed which is often called "virtual world". With the existence of this virtual world, it has changed the habits of many people, especially in using the internet, from changing the way and means of banking or business transactions carried out with the internet which is called electronic transactions (e-commerce), education, health, transportation, tourism and also entertainment.¹

In recent years, the development of electronic games or online games has reached an astonishingly rapid level. This phenomenon reflects how the internet, while providing convenience and creativity, also opens the door to new challenges and risks that must be overcome in managing its use. One form of 'fruit' from the development of technology and online games is the proliferation of online gambling sites on the internet.

Gambling is a common phenomenon found in people's lives. With the development of the times, gambling can now be done in various forms and mechanisms. Gambling is generally seen as a type of crime. The crime of gambling or participating in gambling has been prohibited in the provisions of Article 542 of

¹ Pande Putu Rastika Paramartha, et al, "Criminal Sanctions Against Online Gambling Content Advertisers and Promoters," *Journal of Legal Preferences* 2, no. 1 (2021): 156–60, <https://doi.org/10.22225/jph.2.1.3062.156-160>. accessed August 12, 2024.

the Criminal Code, which has now been changed to criminal provisions regulated in Article 303 of the Criminal Code.

Online gambling is one of the cyber crimes that is rampant in Indonesia. Based on information provided by the Financial Transaction Reports and Analysis Center (PPATK), around 157 million online gambling transactions were carried out in Indonesia in the period 2017-2022. The total value of money circulating in these transactions reached IDR 190 trillion. This online gambling case not only harms society financially, but also has a negative impact on the country's social and economic order. Basically, online gambling is an act that is prohibited in Article 27 Paragraph (2) of Law Number 1 of 2024 concerning the second amendment to the Electronic Information and Transactions Law, which reads as follows: "Any person intentionally and without the right to distribute, transmit, and/or make accessible Electronic Information and/or Electronic Documents that contain gambling content".

According to Judhariksawan, "cyber crime is an activity that utilizes computers as a medium supported by a good telecommunications system, namely a dial-up system, using a telephone line, or a wireless system, which uses a special antenna such as wireless. Judhariksawan, Introduction to Telecommunications Law, Jakarta, Rajawali Press, 2015 page 27 Cyber crime is also related to the term cyber space. Cyber space is seen as a world of computer-based communication. Cyber space is also considered a new reality in everyday life known as the internet. The working system of this cyber space can be said to change a distance and time that was once limited to now unlimited.

Like the case handled by Sub-Directorate V/Cyber Crimes, Directorate of Special Criminal Investigation, Central Java Regional Police. On September 15, 2021, officers from the Directorate of Special Criminal Investigation of the Central Java Regional Police received information from the public that there was an internet cafe in the Central Java Jurisdiction, especially in Surakarta City, namely the Cyberton Internet internet cafe which provides a place/facility to access online gambling games via all electronic devices and the internet at the internet cafe. On Wednesday, October 27, 2021 at around 22.00 WIB, personnel/officers from Sub-Directorate V/Cyber Crimes or hereinafter referred to as Sub-Directorate V/Cyber Crimes, Directorate of Special Criminal Investigation of the Central Java Regional Police based on Task Order Number: SP.Gas/1318/X/2021/Ditreskrimsus, on October 22, 2021, took Police Action at the Cyberton Internet Cafe located at Jl. Ir. H. Juanda No. 64 Jebres, Surakarta City. When officers from Subdit V / Tipidsiber Ditreskrimsus Polda Jateng took action at the Cyberton Internet Cafe, they found online gambling activities using hardware (computers) and software (websites) at the Cyberton Internet Cafe and took action against the cafe guard named NOVA DWI PURWANTO alias NOVA as Receptionist and DAYNANI KANTADONA alias DINI as Online Gambling Game Operator or Depo as well as the community who at that time were carrying out online gambling activities.

Ditreskrim Polda Jateng as the main executor led by the Director of Special Criminal Investigation who holds the rank of Police Commissioner and is directly responsible under the Central Java Police Chief. In carrying out the task of investigating and investigating special crimes, adequate Human Resources (HR) are needed and are able to work professionally and responsibly.²

The Directorate of Special Criminal Investigation of the Central Java Regional Police is also currently inseparable from the increasing demands of the community along with the increasing number of problems that occur in the community. This encourages the ability of each member of the Directorate of Special Criminal Investigation of the Central Java Regional Police to have advantages and good quality in optimizing their performance. This is because there is a reform in the agency as the basis for all changes in performance, which must be in accordance with the wishes and expectations of the community who want members of the Directorate of Special Criminal Investigation of the Central Java Regional Police to be able to provide protection, service, and a sense of security to the community.

2. Research Methods

The research method consists of: the approach method of the sociological juridical research type using primary data, where the primary data is obtained directly from the source so that it is still raw data, research specifications The author conducted research including Descriptive Analytical research which focuses on problems that describe the provisions in legal theory and regulations including research objects, legal research data collection methods there are two types of data needed, the first type of data is called primary data through interviews and the second type of data is called secondary data including official documents, books and data analysis methods are qualitative analysis through the data collection stage, which is described descriptively.

3. Results and Discussion

3.1. Determination of Locus and Tempus Against Online Gambling Service

Providers Through the Electronic Information and Transactions Law

1. Determination of Locus delicti

Theory of Effectiveness of Determining Locus and Tempus Against Online Gambling Service Providers The importance of knowing the locus delicti and tempus delicti to determine the place and time of a criminal event, is directly

² Honorata Ratnawati Dwi Putranti, Efforts to Improve Employee Performance Through Transactional Leadership and Career Development (Study at the Directorate of Criminal Investigation of the Central Java Regional Police) Scientific Journal of Economics and Business, Vol.15, No.1, July 2022, Page 45

related to the principles contained in the Criminal Code. The principles used to determine the place and time of a crime.

Theory Law enforcement of the determination of Locus and Tempus Against Online Gambling Service Providers online gambling is declared a crime that can damage morals. Therefore, various law enforcement efforts are made to suppress the number of online gambling crimes. Theory of the Legal System for Determining Locus and Tempus Against Online Gambling Service Providers The system or theory of proof known in the world of criminal law is: proof based solely on the judge's conviction (Conviction intime)

The development of information technology has a significant impact on human life, the positive impact is that it makes all human life activities easier, while the negative impact is the increasing number of new crimes by utilizing the development of this technology. This is in line with a theory that states that crime is a product of society itself. The more human civilization develops, the more forms of crime that emerge. The presence of computers as the spearhead of the information technology revolution opens up the potential for progress in various related technologies. The convergence of computer technology with information technology and communication technology has given rise to a new phenomenon, namely the internet

Locus Delicti in Black's Law Dictionary is defined as the place of the wrong (the place where an offense was committed; the place where the last event necessary to make the actor liable occurred). Meanwhile tempus is defined as time; a specified duration.³

The global aspect creates a condition as if the world has no borders (borderless). Problems arise in determining the locus delicti of cyber crime, in connection with the nature of the internet which is cross-border. This situation can result in the perpetrator, victim and place of the crime (locus delicti) occurring in different regions. Is the determination of the locus delicti in general used by criminal law currently still relevant when applied in determining the locus delicti of cyber crime considering the nature of cyber crime which is cross-border and national?.

If interpreted, locus and tempus in a crime mean the place and time of the crime. Locus is important to know because it determines whether Indonesian criminal law applies to the crime or not. This is related to Articles 2 to 8 of the Criminal Code; determining which prosecutor and court should handle the case. This is related to relative competence. Tempus is important to know because; Article 1 of the Criminal Code (whether the act involved at that time was prohibited and threatened with punishment, related to the principle of legality); Article 44 of the Criminal Code (whether the defendant was able to be responsible at that time); Article 45 of the Criminal Code (whether the defendant was 16 years old when

³*ibid*

committing the act or not); Article 79 of the Criminal Code (verjaring or expiration, calculated from the day after the crime occurred).

Online gambling among the people in Indonesia is a problem. The development of technology and easy access to the internet allows and facilitates people to engage in online gambling activities, thus creating concerns regarding the increasing trend of gambling among the people, especially the younger generation.

Online gambling is a form of gambling that is carried out via the internet using electronic devices such as computers, laptops, or mobile phones. Online gambling is one type of cybercrime as stated in Article 27 paragraph (2) of Law 1/2024 concerning the second amendment to the ITE Law, which reads as follows: Any person intentionally and without the right to distribute, transmit, and/or make accessible Electronic Information and/or Electronic Documents that contain gambling content.⁴

One example of the development of criminalization is the emergence of cyber crime involving sophisticated technology in doing it, no longer with conventional criminal methods. With the emergence of new crimes in this case cyber crime, it will be followed by legal regulations (in this case legislation) not only that but the determination of *tempus delicti* in cyber crime needs to be considered because as we know this cyber crime is not easy to track.

Some theories about *locus delicti* that are commonly used in Indonesia are:⁵

1. Theory of material action (*leer van lichamelijke daad*).
2. Theory of the tools used (*leer van het instrument*).
3. Consequence theory (*leer van het gevolg*)

Determining the place and time of an online gambling crime sometimes makes it difficult for law enforcement officers.

In the case of online gambling perpetrators caught red-handed while gambling online in internet cafes and other open places, the determination of the place and time of the occurrence of the crime of online gambling can be determined by the most suitable determination method. If the perpetrator has been caught by law enforcement officers, an examination can be carried out on computer media or telephones to the accounts of the suspected online gambling perpetrators.

Law enforcement officers can conduct imaging on computers suspected of being used as a medium for online gambling to find evidence that the computer has been used to access gambling websites repeatedly, or bank accounts that have been

⁴ <https://www.Hukumonline.com/klinik/a/bangun-pasal-27-ayat-2-uu-ite-2024-tangan-ijudi-online-i-lt65afa86471ccc/> accessed on August 29, 2024 at 11.47 WIB.

⁵Sudarto, *Criminal Law I* (Semarang: Sudarto Foundation, 1990)

used to send money to certain accounts belonging to online gambling service providers. From the imaging results, it can also be known where exactly the perpetrator committed the crime of gambling and the time the crime of online gambling occurred, either based on the user's IP address or through information obtained from the computer log.

According to the author, when studied using the theory of law enforcement, determining the locus delicti of a place where an incident occurred determines the law that applies to the act committed.

Locus Delicti means "the place of the crime". From this term emerged the mention in law with locus regit actum which means "the place of the act determines the law applicable to the act committed" In the Criminal Code, locus delicti has been determined but is not very specific in accordance with the development of the times. Because the very rapid development of society has caused the law to no longer be able to guarantee justice and legal certainty in society. In essence, the Criminal Procedure Code also does not provide provisions in material law, but provides provisions in formal law that determine relative competence. Based on the applicable provisions, the examination of crimes by law enforcement officers is based on the procedures that have been regulated in Law No. 8 of 1981 concerning the Criminal Procedure Code (KUHP).

Article 84 of the Criminal Procedure Code explains that the relative competence of a district court always refers to the place where the crime occurred or was committed. This provision can be set aside if there is another district court that is closer to the place where most of the witnesses who will be presented in the trial are, compared to the district court that feels that the crime that has occurred is in its jurisdiction (negative conflict).

Sub-Directorate V/Cyber Crimes Directorate of Special Criminal Investigation of Central Java Regional Police of Central Java Regional Police handles special cases that occur in Central Java, in the Criminal Investigation Unit there is a special unit for cybercrime (cybercrime) where this unit handles crimes related to information and electronic transactions and is not limited to crimes committed using modern technology such as cellphones, computers, iPads, and so on.

As in the case handled by Subdit V/Tipidsiber Ditrektorat Reserse Criminal Khusus Polda JatengPolda Jawa Tengah in Surakarta, namely at the CYBERTON INTERNET internet cafe, which provides a place/facility for accessing gambling games that can be accessed via all electronic devices and the internet at the internet cafe. which is located at Jl Ir. H. Juanda No. 64 Jebres Surakarta City. When officers from Subdit V/Tipidsiber Ditreskrimsus Polda Jateng took action at the CYBERTON INTERNET Internet Cafe, they found online gambling activities using hardware (computers) and software (websites) at the CYBERTON INTERNET Internet Cafe and took action against the internet cafe guard named NOVA DWI PURWANTO

alias NOVA as Receptionist and DAYNANI KANTADONA alias DINI as Online Gambling Game Operator/Depo.

When officers from Subdit V / Tipidsiber Ditreskrimsus Polda Jateng carried out police action, they found electronic devices at the CYBERTON INTERNET Internet Cafe, including:⁶

1. 6 (six) black monitor units
2. 6 (six) black CPU units;
3. 6 (six) units of black keyboard;
4. 6 (six) units of black mouse;
5. 1 (one) unit of black Mikrotik router board, SN: ADBA0A59E37F/ 623;
6. 1 (one) unit of HUAWEI brand Gepon terminal in white, SN: 2102312AJC6RJ5014899 Y HG858245UG03, IP: 192.168.100.1;
7. 1 (one) unit Gpon Terminal HUAWEI Brand White Color, SN: 48575443B357B7444;
8. 1 (one) unit TP LINK white color, Model: TL-WR741ND, SN: 2145109005605;
9. 1 (one) unit TP LINK black, model: TL-SG1024D, 24-Port, SN: 13AB1100567;
10. 1 (one) unit TP LINK black, model: TL-SG1016D(UN), 16-Port, SN: 218C906002501;
11. 1 (one) unit TP LINK black, model: TL-SF1016D, 16-Port, SN: 13CA7100321;
12. 1 (one) unit black DVR SPC-UVR 7TJ08EM-D58J;
13. 1 (one) unit of silver 4 Port VGA Splitter, MT-1504;

Which is suspected to be a means of providing internet cafe infrastructure to internet cafe customers so that internet cafe customers can play online gambling.

Furthermore, the internet cafe guard named NOVA DWI PURWANTO alias NOVA as Receptionist and DAYNANI KANTADONA alias DINI as Online Gambling Game Operator/Depo and the online gambling players Mr. ISWANTO (player in room 18 and Mr. HARINDRI player in room 1) were secured along with evidence/proof to be brought to the Ditreskrimsus Polda Jateng office to request information/in-depth investigation related to the incident and the role of each perpetrator.⁷

⁶Data obtained from Subdit V/Tipidsiber, Directorate of Special Criminal Research, Central Java Regional Police, Central Java Regional Police

⁷Data obtained from Subdit V/Tipidsiber, Directorate of Special Criminal Research, Central Java Regional Police, Central Java Regional Police

After conducting a request for information and analyzing evidence, the officer concluded that there was a criminal incident in the case title and recommended that the case be raised to the investigation stage until a Police Report was issued for the case in question, so that a Police Report was issued: LP/A/530/X/2021/SPKT.DITKRIMSUS/POLDA JAVA TENGAH, dated October 29, 2021.

Online gambling games provided by Warnet CYBERTON INTERNET are online gambling games with SBOBET display, how to play gambling games at Warnet CYBERTON INTERNET address at Jl Ir. H. Juanda No. 64 Jebres Surakarta City is a player or user who wants to play gambling must have an account / ID that can be created by the Warnet CYBERTON INTERNET operator.

Account / id consisting of username and password is used to access gambling games with the website gabungsbo.com game name SBOBET. After getting an id / account to play gambling, it can be used directly on the computer device provided at the CYBERTON INTERNET Warnet address at Jl Ir. H. Juanda No. 64 Jebres Surakarta City. After the player has an id / account that has been created by the CYBERTON INTERNET warnet operator, then the player enters a balance / deposit in the form of cash which is handed over directly to the warnet operator for gambling capital, which balance will automatically appear on the player's account / id display for gambling capital.

If the player wins the online gambling game, the player's balance/deposit will automatically increase and if the player loses the gambling game, the player's balance/deposit will automatically decrease by itself. For the balance/deposit that the player has won from the SBOBET gambling game, if the player wants to take the winnings from the gambling game, it can be taken directly in cash to the internet cafe officer with the nominal amount of money that the player wants to take according to the amount of balance or deposit in the account/id that we have or taken less than the balance/deposit in the gambling account/id that the player has for gambling capital using electronic media and the internet.

2. Determination of Tempus delicti

The development of technology today is so rapid, everything can be done in practical ways using the internet. Everyone is switching to using sophisticated technology for their daily needs such as online shopping, transfers, bill payments, communication, and much more. This development has positive and negative impacts, but the rapid changes in technology have also brought changes to society in their lifestyles, and this is what often causes people to misuse this technology to do things that harm others.

One example of the development of criminalization is the emergence of cyber crime involving sophisticated technology in doing it, no longer with conventional criminal methods. With the emergence of new crimes in this case cyber crime, it

will be followed by legal regulations (in this case legislation) not only that but the determination of *tempus delicti* in cyber crime needs to be considered because as we know this cyber crime is not easy to track.

Determination of *tempus delicti* in cyber crime with ordinary crime is the same, the only difference is that cyber crime is accessed using electronic media that connects with the name of the internet. Where the determination of *tempus delicti* in criminal theory is as follows:

1. Physical action theory

This is a theory that explains when a crime was committed by a suspect.

2. Theory of how the tool used works

This is a theory that explains when a tool is...

used to commit a crime is activated and ends up having consequences for the victim.

3. Theory of effect

This is a theory that explains when the consequences begin to arise when a crime occurs.

4. Multiple time theory.⁸

Considering that criminal law is very complex and requires precision in all aspects of its resolution, in addition to understanding the competence regarding *locus delicti*, we as legal citizens are also required to understand the place where the crime occurred as a whole, but we must also understand *tempus delicti* because this is also equally important, namely:

1. The principle of legality relating to the enactment of the provisions of Article 1 paragraph

(1) and (2) of the Criminal Code.

Central Java Regional Police Criminal Investigation Unit Sub-Directorate V/Cyber

Crimes of the Special Criminal Investigation Directorate of the Central Java Regional Police handled a case that occurred in Central Java, namely the Mayantara case where this unit handled crimes related to information and electronic transactions and was not limited to crimes committed using modern technology such as cellphones, computers, iPads, and so on.

⁸Kertanegara, *Breaking Through the Boundaries of Time, Panorama of Islamic Philosophy* (Bandung: Mizan, 2000).

As stated by Police Commissioner Sentot Ambar Wibowo SH, MH as a special cyber crime investigator at Subdit V/Tipidsiber, Directorate of Special Criminal Investigation, Central Java Police, stated that Locus is where Cybertron provides gambling services.⁹Cyber crime is classified as a special crime because the media used for the crime is electronic media, as stated by Sentot Ambar Wibowo SH, MH¹⁰as a Special Investigator for Cyber Crime at Subdit V/Tipidsiber, Directorate of Special Criminal Investigation, Central Java Regional Police. the term cyber crime is no longer like that but rather the misuse of Technology and Informatics. This term is because cybercrime is not only carried out via laptops or computers such as mobile phones, PC tablets, HP from all brands from ordinary to famous because all of them consist of 3 elements that can be categorized as computers, namely:¹¹

1. Head

Which consists of a screen, buttons, processor, and memory that can store data.

2. software

Which consists of operating systems on Android, BlackBerry, iPhone, Windows systems on mobile phones

3. The third element is the existence of humans themselves who carry it out or use it.

The results of the research conducted at Subdit V/Tipidsiber, Directorate of Special Criminal Investigation, Central Java Regional Police, have handled many cyber crime cases or cases of misuse of technology and informatics up to the P-21 level and have even received verdicts from the Court, one of which is the Cybertron case which is an online gambling crime. The determination of tempus and locus delicti is as follows:¹²

1. Online way

Namely by using computer facilities with the internet to collect existing evidence and the perpetrators.

⁹Interview with Sentot Ambar Wibowo SH, MH as investigator of Subdit V/Tipidsiber Ditreskrimsus Polda Jateng on November 2024

¹⁰Interview with Sentot Ambar Wibowo SH, MH as investigator of Subdit V/Tipidsiber Ditreskrimsus Polda Jateng on November 2024

¹¹Interview with Briptu Restu Alif JSor as investigator of Subdit V/Tipidsiber Ditreskrimsus Polda Jateng on November 2024

¹²Interview with Ipda Hadi Ismanto, SH, MH as investigator of Subdit V/Tipidsiber Ditreskrimsus Polda Jateng on November 2024

2. Offline way

Namely, conducting computer forensic tests to obtain evidence and evidence carried out using computer or conventional technology.

The results of the study obtained to determine the *tempus delicti* that in determining the *tempus delicti* in the police, the first is when the perpetrator accesses or creates or does it in the internet system. Second, the consequences of the act occur, namely the *tempus* when the data is received into the computer system or the means received. Third, regarding the time the crime was committed, it is when the perpetrator automatically accesses the internet, the month, date, and time shown have been stored in the document that was accessed.¹³

After the investigator's files are declared complete, the investigator submits the case files to the prosecutor's office which will be handled by the public prosecutor to check the completeness and carefully re-analyze the case, and make pre-prosecution files to be submitted to the court and prepare the indictment for the trial process later.¹⁴

In terms of determining *tempus delicti*, one example of a case that has been handled by investigators at Subdit V/Tipidsiber, Directorate of Special Criminal Investigation, Central Java Regional Police, CYBERTON INTERNET provides a place/facility for accessing gambling games that can be accessed via all electronic devices and the internet at the internet cafe.

Alleged criminal act: Any person who intentionally and without rights or against the law produces, sells, procures for use, imports, distributes, provides, or owns:

- a) Computer hardware or software that is designed or specifically developed to facilitate acts as referred to in Articles 27 to 33
- b) Computer passwords, access codes, or similar things that are intended to make the Electronic System accessible with the aim of facilitating acts as referred to in Articles 27 to 33

As referred to in Article 50 in conjunction with Article 34 paragraph (1) of the Republic of Indonesia Law Number 11 of 2008 and its amendments to the Republic of Indonesia Law Number 19 of 2016 concerning Electronic Information and Transactions and/or Any Person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content as referred to in Article 45 paragraph (2) in conjunction with Article 27 paragraph (2) of the

¹³Interview with Bripka Indra Lukmana, SH as investigator of Subdit V/Tipidsiber Ditreskrimsus Polda Jateng on November 2024

¹⁴Interview with Briptu Pujo Gantoro, S.Psi as investigator of Subdit V/Tipidsiber Ditreskrimsus Polda Jateng on November 2024

Republic of Indonesia Law Number 19 of 2016, amendments to the Republic of Indonesia Law Number 11 of 2008 concerning Electronic Information and Transactions.

On September 15, 2021, officers from the Directorate of Special Criminal Investigation of the Central Java Regional Police received information from the public that there was an internet cafe in the Central Java Jurisdiction, especially Surakarta, namely the CYBERTON INTERNET internet cafe which provides a place/facility for accessing gambling games that can be accessed via all electronic devices and the internet at the internet cafe.

Then on Wednesday, October 27, 2021 at around 22.00 WIB, personnel/officers of Subdit V / Tipidsiber Ditreskrimsus Polda Jateng based on Task Order Letter Number: SP.Gas/1318/X/2021/Ditreskrimsus, dated October 22, 2021, took Police Action at the CYBERTON INTERNET Internet Cafe located at Jl Ir. H. Juanda No. 64 Jebres, Surakarta City. When officers of Subdit V / Tipidsiber Ditreskrimsus Polda Jateng took action at the CYBERTON INTERNET Internet Cafe, they found online gambling activities using hardware (computers) and software (websites) at the CYBERTON INTERNET Internet Cafe and took action against the internet cafe guard named NOVA DWI PURWANTO alias NOVA as Receptionist and DAYNANI KANTADONA alias DINI as Online gambling game Operator / Depo. Then there were also internet cafe customers who were playing online gambling in the CYBERTON INTERNET internet cafe booth.

The case can be classified into an electronic crime or cyber crime case because what is meant by violation of information and electronic transactions is not only a crime via the internet but also a crime committed using electronic devices that meet the 3 elements categorized as computers, namely: hardware, software, there is a human being who controls or runs or uses it. Therefore, this crime is included in cyber crime or electronic crime.

Article 50 in conjunction with Article 34 paragraph (1) of the Republic of Indonesia Law Number 11 of 2008 and its amendments to the Republic of Indonesia Law Number 19 of 2016 concerning Electronic Information and Transactions

The determination of *tempus delicti* carried out by Subdit V/Tipidsiber, Directorate of Special Criminal Investigation, Central Java Regional Police in the CYBERTON INTERNET case was on September 15, 2021, officers from the Directorate of Special Criminal Investigation, Central Java Regional Police received information from the public that there was an internet cafe in the Central Java Jurisdiction, especially Surakarta, namely the CYBERTON INTERNET internet cafe

which provides a place/facility for accessing gambling games that can be accessed via all electronic devices and the internet at the internet cafe.¹⁵

Then on Wednesday, October 27, 2021 at around 22.00 WIB, personnel/officers from Subdit V/Tipidsiber Ditreskrimsus Polda Jateng based on Task Order Letter Number: SP.Gas/1318/X/2021/Ditreskrimsus, October 22, 2021 carried out Police Action at the CYBERTON INTERNET Internet Café

Therefore, related to *tempus delicti*, the law used to ensnare cyber crime by law enforcement officers is Law No. 11 of 2008 concerning ITE (Law on Information and Electronic Transactions), but if Law No. 11 of 2008 concerning ITE (Law on Information and Electronic Transactions) does not regulate it completely or is not regulated in Law No. 11 of 2008 concerning ITE (Law on Information and Electronic Transactions), then its use is linked to other laws related to the crime committed or if Law No. 11 of 2008 concerning ITE (Law on Information and Electronic Transactions) has not been regulated, then the law used is to return to the Criminal Code (Criminal Code) or other laws.

3.2. Effectiveness of Criminal Sanctions Against Online Gambling Service Providers Through the Electronic Information and Transactions Law

The increasingly advanced civilization sometimes causes consequences that are not always beneficial for human life. Such as the increase in various types of crimes, one example of which is gambling. With the ease of information technology, gambling can be done via a mobile phone connected to the internet, known as online gambling. The existence of a law means that there are regulations in human behavior. All legal actions carried out by legal subjects and causing legal events will result in legal consequences. According to Hans Kelsen, the effectiveness of law, also discussed about the Validity of law. The validity of law means that legal norms are binding, that people must act according to what is required by legal norms, that people must obey and apply legal norms. The effectiveness of law means that people actually act according to legal norms as they should act, that the norms are actually applied and obeyed.

Crime will certainly always be attached to the development of the times and human civilization. Handling crime or criminal policy can be interpreted as an effort to overcome crime. In understanding criminal policy is closely related to the justice system which is also related to the law enforcement system, meaning that criminal law enforcement can be realized through a criminal justice system that is in accordance with criminal policy. In a narrow sense, criminal policy is the entire principle and method that is the basis for reactions to violations of the law. While

¹⁵Interview with Briptu Ainun Nurhani, SH as investigator of Subdit V/Tipidsiber Ditreskrimsus Polda Jateng on November 2024

in a broad sense, criminal policy can be interpreted as the entire function of law enforcement officers, including the criminal justice system.

The application of criminal sanctions or the imposition of criminal sanctions means implementing, imposing punishment in accordance with the applicable regulations, in this case because of committing a crime, the regulations in question are criminal regulations. Gambling is a crime that has existed for a long time. However, along with the advancement of information and communication technology, the way people gamble has changed from being conventional to being more modern. Nowadays, a person does not need to meet a bookie in person in one physical place. Gambling games can be accessed from anywhere, simply through an internet connection. Gambling can be played through various devices such as mobile phones, laptops, computers, netbooks, and tablets.

Online gambling crime has become a major problem in today's digital era. This phenomenon not only causes losses at the individual and group level, but also has a wide negative impact. In the framework of information and electronic transaction law, online gambling crimes are considered a violation of the law that can be subject to sanctions. As a form of digital crime, online gambling violates the law by conducting unauthorized transactions through electronic media, so this action is strictly prohibited by legal regulations. In addition, online gambling also has the potential to threaten the security and privacy of individual data, because it involves financial transactions that are not validated and not properly protected. Therefore, strict policies and regulations are very important to ensure that electronic transactions carried out by the public can be protected and safe.

In addition, effective cooperation between various law enforcement agencies is very important in the effort to enforce criminal law against online gambling. In many cases, law enforcement from various jurisdictions and agencies need to collaborate to uncover and pursue online gambling perpetrators. Good coordination and effective information exchange between these agencies are the keys to success in dealing with online gambling crimes.

The effectiveness of criminal sanctions against online gambling crimes can vary depending on a number of factors, including legal regulations, law enforcement, technology, and cooperation between various parties involved. Several aspects that can affect the effectiveness of law enforcement against online gambling crimes, there are at least seven aspects that can be done against the effectiveness of law enforcement against online gambling crimes, including through the following methods:

1. Legal Regulations

The existence of clear and comprehensive laws on online gambling can provide a strong legal basis for law enforcement. Unclear or inadequate regulations can make it difficult to punish perpetrators of online gambling crimes.

From a positive legal perspective, the criminal content of gambling is regulated in Article 303 of the Criminal Code, namely:

"Anyone who gambles is threatened with a criminal penalty of 10 years in prison, or a fine of Rp. 25 million, unless they have permission from the authorities.

Then regarding online gambling, it is regulated in Article 27 paragraph (2) in conjunction with Article 45 paragraph (1) of the Electronic Information and Transactions Law, namely: "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible electronic information and/or electronic documents that contain gambling content." This action is a criminal offense that is punishable by a maximum of 6 years in prison and/or a maximum fine of IDR 1 billion. Furthermore, Article 1 of Law No. 7 of 1974 concerning the Implementation of Gambling Control states the prohibition on granting gambling permits.

In the practice of online gambling found in society, one of which is handled by the Directorate of Special Criminal Investigation of the Central Java Regional Police received information from the public that there is an internet cafe in the Central Java Jurisdiction, especially Surakarta, namely the CYBERTON INTERNET internet cafe which provides a place/facility for accessing gambling games that can be accessed via all electronic devices and the internet at the internet cafe.¹⁶

The provisions for the threat and criminal sanctions that will be imposed on the perpetrators are: Alleged criminal acts. Every person intentionally and without rights or against the law produces, sells, procures for use, imports, distributes, provides, or owns:

- a. Computer hardware or software that is designed or specifically developed to facilitate acts as referred to in Articles 27 to 33
- b. Computer passwords, access codes, or similar things that are intended to make the Electronic System accessible with the aim of facilitating acts as referred to in Articles 27 to 33

As referred to in Article 50 in conjunction with Article 34 paragraph (1) of the Republic of Indonesia Law Number 11 of 2008 and its amendments to the Republic of Indonesia Law Number 19 of 2016 concerning Electronic Information and Transactions and/or Any Person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain gambling content as referred to in

¹⁶Data obtained from Central Java Regional Police

Article 45 paragraph (2) in conjunction with Article 27 paragraph (2) of the Republic of Indonesia Law Number 19 of 2016, amendments to the Republic of Indonesia Law Number 11 of 2008 concerning Electronic Information and Transactions.¹⁷

In this regard, the collection of strong electronic evidence is also an important factor in the effectiveness of the application of criminal law to online gambling. To support criminal law cases, electronic evidence is needed that can link the perpetrators to illegal gambling. Therefore, it is important for law enforcement to have strong digital forensic capabilities and regulations that facilitate the collection of legitimate electronic evidence.

When officers from Subdit V / Tipidsiber Ditreskrimsus Polda Jateng carried out police action, they found electronic devices at the CYBERTON INTERNET Internet Cafe, including:¹⁸

- ↳ 6 (six) black monitor units
- ↳ 6 (six) black CPU units;
- ↳ 6 (six) units of black keyboard;
- ↳ 6 (six) units of black mouse;
- ↳ 1 (one) unit of black Mikrotik router board, SN: ADBA0A59E37F/ 623;
- ↳ 1 (one) unit of HUAWEI brand Gepon terminal in white, SN: 2102312AJC6RJ5014899 Y HG858245UG03, IP: 192.168.100.1;
- ↳ 1 (one) unit Gpon Terminal HUAWEI Brand White Color, SN: 48575443B357B7444;
- ↳ 1 (one) unit TP LINK white color, Model: TL-WR741ND, SN: 2145109005605;
- ↳ 1 (one) unit TP LINK black, model: TL-SG1024D, 24-Port, SN: 13AB1100567;
- ↳ 1 (one) unit TP LINK black, model: TL-SG1016D(UN), 16-Port, SN: 218C906002501;
- ↳ 1 (one) unit TP LINK black, model: TL-SF1016D, 16-Port, SN: 13CA7100321;
- ↳ 1 (one) unit black DVR SPC-UVR 7TJ08EM-D58J;
- ↳ 1 (one) unit VGA Splitter 4 Port silver color, MT-1504

In carrying out investigations and inquiries, there are difficulties in tracking mobile phone numbers, and there are still many obstacles faced. In addition, in the

¹⁷Criminal Code

¹⁸Data obtained from the Central Java Regional Police

process of making the Investigation Report (BAP), it is carried out through an examination of the communication network used by the perpetrator, and sometimes based on witness statements obtained.

According to the author, it is studied with the theory of effectiveness in determining the locus delicti. Talking about the effectiveness of the law means talking about the working power of the law in regulating and/or forcing society to obey the law. The law can be effective if the factors that influence the law can function optimally. The measure of whether a regulation is effective or not the applicable law can be seen from the behavior of the community. A law or regulation will be effective if the community behaves according to what is expected or desired by the law or regulation and achieves the desired goal, then the effectiveness of the law or regulation has been achieved.

The provisions as stated in Article 151 of the Criminal Procedure Code above, then High Court judges and Supreme Court judges must have accountable legal considerations when deciding a dispute over the authority to judge. The basis for these considerations is not too complicated if the legal problem being handled is based on Article 84 paragraph (1) of the Criminal Procedure Code regarding a clear and definite locus delicti.

Online gambling has seen tremendous growth across the globe, fueled by technological advancements and the emergence of easy-to-use platforms. Saudi Arabia, with its tech-savvy population, is no stranger to this global trend, albeit with a strict legal and cultural framework governing the activity. Despite the country's conservative stance on gambling, curiosity surrounding online betting, gaming, and gambling remains a hot topic. This article explores the tax implications of online gambling winnings in Saudi Arabia while taking into account the legal and cultural environment.

Moreover, how Betting Software Development Agencies, Sports Betting App Developers and Gambling App Development services are shaping the global online betting landscape, making it easier for fans to access the platforms.

Gambling is strictly prohibited in Saudi Arabia, as the country follows Islamic law (Sharia). This prohibition applies to all forms of gambling, including traditional betting, online platforms, and lotteries. The laws governing gambling in Saudi Arabia reflect the country's cultural and religious values, aiming to discourage activities deemed exploitative, unethical, or detrimental to society.

Islamic law classifies gambling as haram. The Quran explicitly condemns gambling in verses such as Surah Al-Baqarah (2:219) and Surah Al-Ma'idah (5:90-91), which associate it with activities that cause enmity, distract from worship, and cause social corruption. Under Sharia law, gambling is viewed as an activity that encourages speculation, addiction, and financial exploitation, which are contrary to the principles of justice and ethical behavior.

Government regulations

Saudi Arabia enforces a ban on gambling through strict regulations. These regulations include:

1. **Criminalization of Gambling:** Engaging in or facilitating gambling activities, whether in person or online, is a criminal offence. Penalties can include fines, imprisonment and forfeiture of funds.
2. **Internet Restrictions:** The Saudi Communications and Information Technology Commission (CITC) actively monitors and blocks access to websites and applications related to gambling or betting. Advanced filtering technology is used to restrict such platforms.
3. **Cybercrime Law:** Online gambling activities fall under the broader anti-cybercrime law in Saudi Arabia. Anyone caught accessing, promoting, or operating a gambling website will face legal action.

Punishment for Gambling

The consequences of gambling in Saudi Arabia can be severe, reflecting the government's zero-tolerance policy. Penalties include:

1. **Fines :** Violators may be required to pay large fines, which serve as both punishment and deterrence.
2. **Asset Confiscation:** Any money or property obtained through gambling may be seized by authorities.
3. **Deportation for Expatriates:** Foreign nationals involved in gambling may face deportation in addition to legal penalties.

Cultural and Social Considerations

In addition to legal restrictions, Saudi Arabian social norms strictly prohibit gambling. The kingdom emphasizes moral and ethical behavior, which is in line with Islamic principles. Gambling is not only considered a violation of the law but also a violation of social values, which can lead to stigma and loss of reputation.

Despite the strict legal framework, some people try to access international online gambling platforms using Virtual Private Networks (VPNs). However, this practice remains illegal, and the government actively monitors online activity to identify and punish violators. Cybercrime units have sophisticated tools to track unauthorized access, ensuring that the ban is enforced even in the digital space.

Comparison with Other Countries

The legal context of gambling in Saudi Arabia is very different from many other countries that regulate and tax gambling. For example:

- United States: Gambling is regulated at the state level, with many states allowing both online and offline betting under certain conditions.
- United Kingdom: The gambling industry is legal and strictly regulated, providing significant tax revenues for the government.
- UAE: Like Saudi Arabia, the UAE prohibits gambling under Sharia law, but the enforcement mechanisms are different.

4. Conclusion

Determining the Locus and Tempus delicti of cyber crime is very important, in addition to being related to the application of the principle of legality in criminal law, Locus and Tempus delicti can also determine other things such as the authority of the police to determine the next steps, criminal sanctions given in accordance with Article 27 to Article 33 as referred to in Article 50 in conjunction with Article 34 paragraph (1) of the Republic of Indonesia Law Number 11 of 2008 and its amendments to the Republic of Indonesia Law Number 19 of 2016 concerning Information and Electronic Transactions and/or Any person intentionally and without the right to distribute and/or transmit and/or make accessible Electronic Information and/or Electronic Documents that have gambling content as referred to in Article 45 paragraph (2) in conjunction with Article 27 paragraph (2) of the Republic of Indonesia Law Number 19 of 2016 amendments to the Republic of Indonesia Law Number 11 of 2008 concerning Information and Electronic Transactions.

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