



## **LEGAL EFFECTIVENESS OF THE BENEFITS OF INFORMATION TECHNOLOGY IN THE LITIGATION PROCESS IN INDONESIAN COURTS**

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**Abstract:** With the development of the times or known as the Industrial Revolution 4.0, the Supreme Court's first step in supporting changes to a judicial system that is easier, faster and cheaper is to issue a Supreme Court Regulation. Number 3 of 2018 which was later revised into Supreme Court Regulation Number 1 of 2019 which requires all court areas in Indonesia, including Indonesian cities, to be able to carry out electronic trials (E-Litigation). Therefore, the aim of this study is to find out more about the implementation, constraints and resolution of the implementation of E-Litigation, especially in Regional Courts in Indonesia. Based on the results of this study, the analysis uses the theory of legal effectiveness according to Soejono Soekanto, there are four factors that have not been implemented effectively, namely "Legal Factors, Law Enforcement Factors, Community Factors and Cultural Factors". One of the impressive factors is in its application, namely "Facilities or Facility Factors that Support Law Enforcement". Barriers to effective implementation are the lack of strict regulations requiring e-litigation and outreach to legal authorities and the relevant community regarding e-litigation. The solution is to review Supreme Court Regulation no. 1 of 2019 and/or implement this coverage.

**Keywords:** *Legal Effectiveness, E Litigation, Information Technology*

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## **Introduction**

Electronic trials or commonly called E-litigation are part of the implementation of the simple, fast, and low-cost legal principles as stated in Article (2) of Law Number 48 of 2009 concerning Judicial Power. In early 2016, the Supreme Court attempted to realize an electronic judicial administration system with the presence of a case tracking information system (SIPP). The SIPP system has replaced various systems that previously existed in 4 (four) judicial institutions so that administrative unity was realized at the Supreme Court of the Republic of Indonesia. The E-litigation trial process previously existed even before the Covid-19 pandemic hit Indonesia. This is an effort to realize simple, fast, and low-cost trials within the Supreme Court and its staff, namely by utilizing information technology in serving the public so that it can save time, costs, and energy. The launch of the E-Litigation application is an implementation of Supreme Court Regulation Number 1 of 2019 concerning electronic administration and trials, as an amendment to Supreme Court Regulation Number 3 of 2018 concerning electronic administration in Courts. This Supreme Court Regulation is the legal basis for implementing the E-Litigation application in judicial institutions in Indonesia.

Furthermore, Supreme Court Regulation Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019 concerning Electronic Administration of Cases and Trials in Court. The implementation of e-litigation is the answer presented by the Supreme Court in forming practical and effective judicial services by utilizing advances in information technology. Effective itself is the implementation of the form of realizing the principles of justice, namely simple, fast, and low cost. Law Number 48 of 2009 Article 2 paragraph 4 stipulates that the court assists justice seekers and is one of the efforts to overcome all obstacles and barriers so that simple, fast, and low cost justice is achieved. The e-litigation system accommodates the implementation of the electronic trial process which contains trial documents (lawsuits, applications, approvals, answers, replies, duplicates, conclusions), evidence and pronouncement of decisions carried out electronically. Electronic litigation is organized by the Supreme Court and four judicial institutions below it, namely:

- a) General Court
- b) Religious Court
- c) State Administrative Court
- d) Military Court



Civil trial through E-litigation is a form of broader innovation, which is not only limited to conducting public court service administration such as lawsuit registration, case down payment, and online summons (relasse). E-litigation is an extension of E-court where not only administration but electronic implementation is carried out comprehensively at the trial stages. Electronic case administration services have provided convenience for justice seekers. Through this application, the Supreme Court of the Republic of Indonesia seeks to answer 3 (three) main problems that have been faced by the parties when litigating in court, namely delay, accessibility (access), and integrity (integrity). The use of information technology can reduce the time it takes to handle cases, reduce the intensity of parties coming to court and channelize the way the parties interact with court officials, and prevent the public from lacking information and knowledge about the court.

The Supreme Court of the Republic of Indonesia focuses on realizing a great Indonesian judicial body, this vision is manifested in the form of a modern court based on information technology in serving. The benefits of the innovation that the Supreme Court of the Republic of Indonesia has carried out are felt by the parties to the case and have received appreciation from various parties, including the President of the Republic of Indonesia, which was conveyed during his state speech before the People's Consultative Assembly of the Republic of Indonesia, August 16, 2019. The development of E-Court, which has so far only served electronic case administration by adding electronic trial services, has received a legal umbrella based on Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2019 concerning Electronic Case Administration and Trials in Court (hereinafter referred to as Regulation of the Supreme Court of the Republic of Indonesia Number 1 of 2019).

This regulation revokes Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2018 concerning Electronic Case Administration in Court which since 2018 (hereinafter referred to as Regulation of the Supreme Court of the Republic of Indonesia Number 3 of 2018) has so far been the legal umbrella for E-Court services in court. PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation Number 4 of 2019

## **Methods**

In conducting this research, the researcher used a normative legal research type. Normative legal research is conceptual legal research as contained in the statutory regulations and conceptually in other legal rules that exist in society regarding a particular legal problem. In this research,



the researcher used a normative research type, namely research conducted by examining statutory regulations or other regulations that are applied in resolving a particular legal problem. This normative research is often called doctrinal research where the object of study is statutory regulatory documents and library materials which are basic data which in research science are classified as secondary data. According to Soerjono Soekanto, legal research can be divided into: Normative Legal Research, consisting of:

1. Research on legal principles
2. Research on legal systematics
3. Research on the level of legal synchronization
4. Legal history research
5. Comparative legal research

In accordance with the type of research, namely normative legal research (normative juridical), more than one approach can be used. In this research, the Legislation approach and the concept approach were used. The Legislation Approach is carried out to examine the Legislation rules that regulate In the perspective of legal theory, justice is the main objective of the natural law school. Where the natural law school is of the view that the law applies universally and eternally. In the context of Indonesia, justice is in line with the values stated in Pancasila as the foundation of the state. The fifth article in Pancasila states that social justice for all Indonesian people, based on this article it can be said that justice must be aimed at all citizens without exception as a manifestation of Indonesia's diversity. To realize social justice can be done through development that is oriented towards the welfare of all Indonesian people. In comprehensive development, legal development is an aspect that cannot be separated.

## **Results / Discussion**

### **1. How effective is the legal benefits of information technology on the litigation process in the District Court of the City of Indonesia**

The Legal Factor Itself. The legal factor itself in this case is a rule or regulations that govern the implementation of the E-Litigation process in court. The legal rules related to the implementation of E-Litigation in court are regulated in PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation



Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Court Electronically. The legal factor is one of the very important factors in enforcing or implementing the law, where without a clear legal rule that regulates it, an application cannot run effectively as planned, this E-Litigation is the absence of a clear rule, which requires all advocates or attorneys of the parties to conduct trials or litigation electronically.

**Law Enforcement Factor.** The meaning of law enforcement is that parties, either directly or indirectly, have involvement in law enforcement in Indonesia. In this case, law enforcement officers in Indonesia consist of the police, prosecutors, judges, and advocates or legal advisors. The law enforcement factor is one of the factors that plays an important role in law enforcement, where with the law enforcement factor, we can assess whether law enforcement in Indonesia has been running effectively or ineffectively. Law enforcement has a very important value, where without law enforcement, the rules or regulations that are made do not have firmness in terms of daily practice. With the existence of law enforcement, this is an example to the community so that they can implement the applicable legal rules and those that must be implemented.

**Facilities or Facilities That Support Law Enforcement.** The facilities or facilities factor is one of the factors that has an important role in supporting the implementation of the law to run effectively. Without the facilities or facilities provided, of course, the implementation of legal rules is difficult to implement. Given that in this modern era, where Indonesia wants to enter the technological industry change. In an era that is heading towards technological development, it is certainly expected to be able to support, especially in the field of law enforcement, especially in Indonesia, so that it can develop in accordance with the development of the times. If it is related to the research that researchers have conducted regarding E-Litigation, of course there is a connection with the industrial revolution 4.0 which is related to technology.

**Community Factors.** Society is one of the most important factors in a country, where a country will progress if the country can prosper its people. If referring to Article 1 number 2 of the 1945 Constitution which states that "sovereignty is in the hands of the people and is implemented according to the Constitution." Therefore, it can be concluded that society is the determining factor in the effectiveness or ineffectiveness of legal rules or regulations that will be applied in the community. If related to the formulation of the problem of this study, the obstacles that researchers found in the results of research in the field.





The reason from the community is that there is no socialization from the government to the community about the existence of this E-Litigation. Where it should be noted that, E-Litigation will be fully implemented starting from January 2020 onwards. Therefore, in the opinion of the researcher, the government should provide socialization to the community regarding this matter. The community factor is an important factor in law enforcement in Indonesia, where the community plays an important role in implementing the legal rules. Therefore, the community also has the right to know the legal rules applied in Indonesia, and has the right to receive socialization regarding the implementation of the legal rules.

Cultural Factors. Cultural factors certainly have a great influence on the implementation of a rule that is issued, where this cultural factor has values contained in it, for example the value of legal certainty and social values. A legal rule that is issued must of course pay attention to the legal certainty that is enforced in the community, if a rule is unable to provide legal certainty in the rule, then it can be said that the legal rule is unable to provide firmness in its implementation. While this social value is very important, where the community has the right and authority over the legal rules issued, as.

## **2. What are the obstacles faced in implementing information technology in the litigation process in Indonesia**

From the explanations above, the obstacles in the implementation of E-Litigation if analyzed using the theory of legal effectiveness by Soerjono Sukanto, there are 4 (four) factors that are not effective in the implementation of E-Litigation, where the four factors consist of "The Legal Factor Itself, Law Enforcement Factor, Community Factor, and Cultural Factor." However, there is 1 (one) factor that is effective in the implementation of E-Litigation, namely "Factor of Facilities or Facilities That Support Law Enforcement."

The Legal Factor Itself. If we refer to the formulation of the researcher's problem in this study, the obstacle faced related to this legal factor is the absence of a rule or article in Supreme Court Regulation Number 1 of 2019 which expressly states that every advocate who is in court must be carried out electronically (E-Litigation). Where from the results of the survey in the field, according to the opinion of Mr. Bistok Nadeak, S.H. which states that in Supreme Court Regulation Number 1 of 2019, there are no rules or articles that expressly state that every advocate or legal advisor who resolves a case in court must be carried out via E-Litigation. According



to Mr. Bistok Nadeak, S.H. also in the Supreme Court Regulation PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Court Electronically.

This also only appeals for it to be implemented electronically, therefore of course advocates or legal advisors are of the opinion that the word appeal can be implemented and can also not be implemented. Referring to the Supreme Court Regulation Number 1 of 2019, where in the regulation there is no article that explicitly regulates the "Must" be implemented electronically, where in the Supreme Court regulation, it regulates more on the process of E-Litigation such as the use of case administration services provided, registration and payment and others related to the case process through E-Litigation.

Law Enforcement Factors. Referring to the formulation of the researcher's problem in this study, the obstacles faced by law enforcers are the lack of socialization from the Supreme Court regarding the implementation of this E-Litigation. Where when the researcher conducted an interview in the field, according to Mrs. Hj. Marwiyah, S.Ag stated that the Supreme Court has not yet socialized E-Litigation to the Class IA Religious Courts of Indonesia, where the Supreme Court only requested that PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation Number 4 of 2020 concerning Electronic Administration and Trial of Criminal Cases in Court be implemented immediately. related to E-Litigation, where if later there are problems or obstacles, the Class IA Religious Court will convey the obstacles they face.

Meanwhile, from the advocate's perspective, namely Mr. Febri Jaya, S.H., M.H. stated that they as advocates have not received any socialization at all regarding the process of using E-Litigation, where only advocate members who are in the above organizations receive socialization regarding E-Litigation. Therefore, the lack of socialization is a factor inhibiting the ineffectiveness of law enforcement related to the implementation of PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Courts Electronically. especially in Indonesian cities.



Community Factors. Referring to the formulation of the researcher's problem, the obstacles faced by the community regarding the implementation of E-Litigation are the lack of socialization regarding the existence of E-Litigation. Where the community and law students still do not know and do not understand the process and what E-Litigation is. From the results of a survey conducted by the researcher in the community through a Google form questionnaire with 27 (twenty-seven) respondents, only 37% (thirty-seven percent) of the community know about E-Litigation. Where the other 63% (sixty three percent) still do not understand and do not know about the existence of E-Litigation, while from the perspective of law students, there are 58.8% (fifty eight point eight percent) of students who do not know about E-Litigation, and 41.2%

### **3.What solutions can be taken in implementing information technology in the litigation process in Indonesia**

From the explanations above regarding the obstacles analyzed using the theory of legal effectiveness by Soerjono Sukanto, there are 4 (four) factors that have not been effectively implemented, consisting of "The Legal Factor Itself, Law Enforcement Factor, Community Factor, and Cultural Factor." However, there is only 1 (one) factor that is effective in its implementation, namely "Facilities or Facilities That Support Law Enforcement." Therefore, the solution that researchers can provide is as follows.

The Legal Factor Itself. From this explanation, according to researchers, a good solution from the implementation of PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Court Electronically. which as a legal factor itself is, a revision of the legal rules is carried out, where according to researchers a legal rule should be explained in detail in it in order to realize legal certainty in its application.

Legal certainty itself is a factor that is very closely related to the legal factor itself, where the legal factor itself is a very important factor in the application of the law. A law enforcer if he cannot provide certainty in his legal rules, then according to researchers, of course, the legal rules cannot be achieved as expected. With the existence of strict legal certainty from the legal rules of PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Court Electronically, according to researchers, the application of these legal





rules can certainly run effectively, where legal certainty is the basis of the legal rules issued.

**Law Enforcement Factors.** Referring to the aforementioned obstacles, it would be better for the Supreme Court and the Chairperson of the PERADI Branch Executive Board in the city of Indonesia to conduct a socialization to all advocates in the city of Indonesia without exception. Where we know that there are a lot of advocates in the city of Indonesia, and therefore, advocates must and have the right to receive socialization from the Supreme Court or from the Chairperson of the PERADI Branch Executive Board regarding the E-Litigation trial process. Where it needs to be emphasized that advocates are one of the law enforcement officers, a law enforcement officer must understand and comprehend every rule of law that is applied. Where a rule of law can be said to be running effectively if the law enforcement officers are able to provide examples and assistance in terms of service to the community related to the rules of law that are applied, in other words, with the presence of law enforcement officers in Indonesia, of course, it can help in organizing the community environment related to the rules of law that are applied.

**Community Factors.** The solution to these obstacles is to conduct socialization to the community regarding the existence and process of E-Litigation, where the community has the right to obtain information related to the implementation of legal regulations in Indonesia. Socializations in this case related to E-Litigation, according to researchers, can be carried out by conducting seminars, broadcasts on radio or television, or in social media or print media, and others that can provide information to the community. With these steps of disseminating information to the community, according to researchers, the community will also understand more quickly regarding the implementation of the legal regulations issued. Thus, if the community already knows and understands the process and meaning of E-Litigation, according to researchers, the implementation of E-Litigation in terms of new community factors can be said to be running effectively.

**Cultural Factors.**

The solution to these obstacles and problems is that it is better to conduct socialization to the community about the existence and importance of the electronic trial process (E-Litigation). These socializations can be carried out by conducting seminars both in universities and general seminars, disseminating information via radio, television, or social media or print media. With the dissemination of this information, according to researchers, it can help in the dissemination of information to the public regarding the implementation of E-Litigation and can also create certainty of law and benefits in the lives of the community regarding the implementation of E-Litigation itself. Factors to



## **Conclusion**

Based on the results of the presentation of the research problems that have been submitted, there are 3 main points that the author will conclude, namely the Implementation of E-Litigation, especially in Indonesian cities, has not been effectively implemented. If tested with the theory of legal effectiveness by Soerjono Sukanto, it can be concluded that there are 4 (four) factors that have not been effectively implemented, namely the legal factor itself, the law enforcement factor, the community factor, and the cultural factor "and there is only 1 (one) factor that is effectively implemented in the implementation of this E-Litigation, namely the factor of facilities or facilities that support law enforcement. The obstacles in the implementation of this E-Litigation lie in. In terms of legal factors that do not have legal regulations that are expressly stated in PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning Amendments to Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Court Electronically.

Which stipulates that every trial in court must be carried out electronically. In terms of law enforcement factors, there is no socialization to all levels, especially advocates in the city of Indonesia, regarding the process and procedures for using the e-court application for electronic trial processes. In terms of society, it can be concluded that the obstacle faced is the lack of socialization to the community regarding the existence and importance of this E-Litigation. Implementation constraints where Based on the results of a survey via a google form that the researcher aimed at the general public and law students, from the perspective of the community, there were 27 (twenty seven) respondents, 63% (sixty three percent) who did not understand and did not know about E-Litigation, and only 37% (thirty seven percent) who understood and knew about E-Litigation, while from the perspective of law students, there were 58.8% (five eight point eight percent) of students who did not know about E-Litigation, 41.2% (four one point two percent) others already knew about E-Litigation and From a cultural perspective, there is no socialization regarding the existence and importance of E-Litigation in the community, it can be concluded that the association that has been passed down from generation to generation in the community regarding court trials, the community still assumes that court trials must be attended by the parties, because of the culture of meeting people in court. The solution to this research is as follows: In terms of legal factors, the solution that can be provided related to the legal factors of the implementation of E-Litigation is to revise the legal regulations or PERMA Number 7 of 2022 concerning Amendments to Supreme Court Regulation Number 1 of 2019, Supreme Court Regulation Number 8 of 2022 concerning



Amendments to Supreme Court Regulation Number 4 of 2020 concerning Administration and Trial of Criminal Cases in Court Electronically.

Which does not explicitly regulate electronic trials that must be carried out. In terms of law enforcement, the solution that can be provided is to conduct socialization to all levels of law enforcement, especially advocates in the city of Indonesia so that all advocates understand and know how to use the e-court application and the procedures for the implementation process of E-Litigation. In terms of society, the solution that can be provided is to conduct socialization to the entire community regarding the importance of the existence of E-Litigation and how the process in E-Litigation is; and 4) From a cultural perspective, the solution that can be provided is to conduct outreach to the community about E-Litigation, where the existence of a culture of hereditary social interaction within the community can also help in disseminating information related to E-Litigation to the entire community.

### **Acknowledgments**

It is better to conduct socialization about this, especially in the section on Reading the verdict electronically, legally, it is considered to be attended by the parties and carried out in a trial that is open to the public, because the verdict is pronounced through the E-Court application which uses a public internet network. Moreover, the verdict that has been handed down will be published by the Religious Court through the Supreme Court of the Republic of Indonesia's verdict directory on the day the verdict is pronounced (one day publish).

For Law Enforcers With the agreement of the parties, electronic trials (e-litigation) can be carried out covering the stages of answering (delivery of answers, replies, duplicates), uploading stamped evidence documents, examination of witnesses/experts, conclusions, and reading of the verdict;

For the Community Because the issue of electronic trials (e-litigation) is a new issue, it is very interesting to discuss with the public, while the author's understanding is still very limited, so the author really hopes for input from readers.

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