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## Legal Analysis of Decision Number 1018/PID/2023/PT MDN in the Online Gambling Case

Article	Abstract
<p><b>Author</b> Kemal Firmanda Ardika Madani<sup>1</sup>, Maudy Dea Aditya<sup>2</sup>, Sabrina Azzahra Cesaria Febrianti<sup>3</sup>, Mawardi Junila Arum<sup>4</sup>, Bintang Wahyu Syahputra<sup>5</sup>, Muhammad Fikri Rasya Alfariq<sup>6</sup></p> <p><sup>1234561</sup> Faculty of PSDKU, State University of Surabaya, Magetan, Indone sia</p> <p><b>Corresponding Author:</b> Kemal Firmanda Ardika Madani, <i>Email:</i> <a href="mailto:24111764097@mhs.unesa.ac.id">24111764097@mhs.unesa .ac.id</a></p> <p><b>Data:</b> Received: Jan 11, 2022; Accepted: Mei 10, 2022; Published: Jun 31, 2022</p> <p><b>DOI:</b> <a href="https://doi.org/10.26740/LF&lt;br/&gt;R.V1I2.49584">https://doi.org/10.26740/LF R.V1I2.49584</a></p>	<p><b>Objective:</b> This study aims to examine legal issues related to the application of Article 303 of the Criminal Code -Criminal Code in conjunction with Article 55 of the Criminal Code in cases of organized online gambling, as reflected in the Medan High Court Decision Number 1018/PID/2023/PT MDN. This study is aimed at evaluating the effectiveness of conventional criminal law norms in responding to the development of information technology-based crimes and the construction of criminal liability for online gambling providers.</p> <p><b>Theoretical Framework:</b> This study is based on criminal law doctrine regarding the elements of gambling offenses, criminal liability theory, and the concept of complicity (medeplegen), relying on the paradigm of legal positivism. This theoretical framework is used to examine the systematic and extensive interpretation of criminal law norms in judicial practice.</p> <p><b>Method:</b> This study uses a normative legal research method with a case approach. Data was obtained from primary legal materials in the form of legislation and court decisions, as well as secondary legal materials including criminal law literature and scientific journal articles. The analysis was conducted using qualitative-descriptive methods.</p> <p><b>Results and Discussion:</b> The results of the study show that the panel of judges focused on the substance of the act by interpreting the provision of online gambling facilities and infrastructure as a form of providing opportunities for unlicensed gambling. The application of Article 55 of the Criminal Code confirms criminal liability for perpetrators who play a strategic role in organized crime.</p> <p><b>Research Implications:</b> These findings have implications for strengthening criminal law enforcement policies against online gambling and provide a reference for judicial practices in handling cybercrime</p> <p><b>Originality/Value:</b> This study makes a new contribution through an annotative analysis of court decisions that link classical criminal law norms to the concrete practice of online gambling.</p> <p><b>Keywords:</b> <i>online gambling, Article 303 of the Criminal Code, criminal liability online.</i></p>

## INTRODUCTION

The development of information and communication technology has brought wide implications to various aspects of life, including in the field of criminal law. One form of crime that has undergone significant transformation due to technological advances is the crime of gambling. Gambling practices that were previously carried out conventionally and limited to certain physical spaces are now shifting to online media by utilizing internet networks, computer devices, and electronic transaction systems<sup>1</sup>. This change allows gambling activities to be carried out in a more systematic, organized, and involving many parties with a clear division of roles, thus expanding the reach and intensity of the crime. The phenomenon of online gambling not only poses economic and social impacts that are detrimental to society, but also presents serious challenges for criminal law enforcement. The complexity of the perpetrator structure, the use of advanced technology, and the interconnectedness between various parties in a series of gambling activities make proving and determining criminal liability even more complicated<sup>2</sup>. In the Indonesian context, these challenges are increasingly evident because the criminal law arrangements used to ensnare gambling are still sourced from the Criminal Code (KUHP), specifically Article 303 of the Criminal Code, which was historically designed to regulate gambling in a conventional form. Nevertheless, judicial practice shows that the provisions of Article 303 of the Criminal Code are still used to crack down on online gambling through systematic and extensive<sup>3</sup> interpretation. Judges are required to be able to adapt classical criminal law norms to the reality of technology-based crime without ignoring the principles of legality and legal certainty. This condition reflects the dynamic between the development of crime and the ability of criminal law to respond to social changes that occur in society.

A number of previous studies have discussed gambling crimes from various perspectives, including criminal policy, law enforcement effectiveness, and the social impact it causes. These studies generally conclude that online gambling can still be charged using Article 303 of the Criminal Code as long as the elements of the offense can be legally and convincingly proven<sup>4</sup>. However, most of these studies focus more on normative and conceptual analysis, so there has not been much in-depth review of how these legal norms are applied concretely in court decisions. The limitations of previous research mainly lie in the lack of court decision-based studies that examine in detail the legal considerations of judges in online gambling cases that are carried out in an organized and large-scale manner. In fact, court decisions are an important source for understanding judges' reasoning patterns, the way judges assess evidence, and the construction of criminal liability, especially in cases involving more than one perpetrator with different roles. Without such analysis, understanding of the direction and consistency of law enforcement towards online gambling becomes less comprehensive<sup>5</sup>. However, previous studies tend to focus on normative and conceptual analysis without deeply examining how judges interpret and apply criminal law norms in concrete cases of organized

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<sup>1</sup> Reza Ditya Kesuma, "Online Gambling Law Enforcement in Indonesia: Challenges and Solutions," *JURNAL EXACT: JOURNAL OF EXCELLENT ACADEMIC COMMUNITY* 1, no. 1 (2023): 34–52.

<sup>2</sup> Farantika Dwi Hardini and et al, "Criminalization of Online Gambling Against Society and the Criminal Justice System," *Assembly: Indonesian Law Journal* 2 (2025).

<sup>3</sup> Wido Rahmat Al-Fattah Husain, "Online Gambling Criminal Law from an Indonesian Perspective and the Development of Legality Aspects," *Journal of Human And Education* 4, no. 6 (2024): 1297–1300.

<sup>4</sup> Husain.

<sup>5</sup> Debby Mohammad Revianto<sup>6</sup> Aliev Dzaky Syafe'ie, Ameylia Safira Jesslin Putri, Andre Al Akbar, Atik Abawaiki, Auliya' UI Rohmah, "THE ROLE OF LOGIC AND LEGAL REASONING IN DECISION-MAKING BY JUDGES," *JOURNAL OF CREATIVITY IN EDUCATION* 6, no. 1 (2025): 113–15.

online gambling. This creates a research gap, particularly in understanding judicial reasoning, the limits of norm expansion, and the construction of criminal liability in practice.

The Medan High Court decision number 1018/pid/2023/pt mdn is relevant to be examined because it reflects the practice of online gambling carried out in a structured, systematic, and profit-oriented manner, where the defendant plays a significant role not only as a passive actor but also as a provider of facilities and infrastructure that support the operation of online gambling. This decision also raises important legal issues related to how article 303 of the criminal code is applied in conjunction with article 55 of the criminal code, particularly in the context of acts committed jointly and involving multiple actors with different roles. In this regard, the main legal problems that arise concern how judges interpret and apply criminal law norms in addressing online gambling, whether such interpretation reflects an expansion of criminal law norms, and how criminal liability is constructed for parties who indirectly contribute through the provision of facilities. This study therefore seeks to analyze the decision not only descriptively but also critically, especially in relation to the principle of legality, the limits of extensive interpretation, and the development of criminal law in responding to technology-based crimes. By doing so, this research offers a more in-depth conceptual contribution in understanding the dynamics of judicial reasoning and the transformation of criminal law in the digital era.

## **RESEARCH METHODS**

This study employs a normative legal research method with a qualitative approach, focusing on the analysis of the application of criminal law norms in judicial practice, particularly in cases of organized online gambling. The approach used includes a case approach by examining the Medan High Court Decision Number 1018/PID/2023/PT MDN as the primary object of analysis, as well as a comparative approach through the review of similar court decisions related to online gambling in order to assess the consistency and development of judicial reasoning. The legal materials used in this study consist of primary, secondary, and tertiary legal materials. Primary legal materials include relevant legislation, such as the Criminal Code and court decisions, while secondary legal materials include textbooks, scientific journal articles, and legal doctrines related to criminal law and cybercrime. Tertiary legal materials, such as legal dictionaries and encyclopedias, are also used to support the understanding of legal concepts. Data collection is carried out through literature study, and the analysis is conducted using qualitative descriptive-analytical methods by systematically interpreting legal norms, examining judicial considerations, and critically evaluating the application and possible expansion of criminal law in the context of online gambling cases..

## **ANALYSIS AND DISCUSSION**

### **A. Position Case**

The case examined and decided in the Medan High Court Decision Number 1018/PID/2023/PT MDN is related to online gambling crimes that are carried out in an organized and systematic manner. This case was revealed after law enforcement officials found

a certain location in the Medan City area that was used as an online gambling operational center. The location is equipped with various supporting facilities, such as a large number of computer devices, a high-speed internet network, and a room division that is specially functioned for the operations of gambling operators. Based on the legal facts revealed at the trial, the online gambling activities are not incidental or temporary, but rather are designed to operate on an ongoing basis. The place used as an activity center has been modified in such a way that it can support gambling activities optimally. This shows the existence of planning and intentionality in carrying out gambling activities that are prohibited by law. The defendant in this case has a significant role in the entire series of criminal acts. The defendant is known to be the party that provides the main facilities and infrastructure used to carry out online gambling activities. The provision includes operational venues, physical facilities, as well as technical support that allows gambling activities to run smoothly. The defendant not only knew that the facilities provided were being used for gambling activities, but was also fully aware of the unlawful nature of the act.

The online gambling activity involves a number of other parties with a clear division of roles. There are parties who act as operators, parties who act as bookmakers, and other parties who support the running of gambling operations. Although each perpetrator performs a different function, all of these acts are interrelated and aim to gain economic benefits from online gambling activities. The profits obtained from gambling activities are one of the important indicators that the acts carried out are not accidental, but profit-oriented. The online gambling activities are carried out for a certain period of time continuously, so as to show the existence of malicious intent (*mens rea*) and legal awareness of the perpetrators, including the defendant. For his actions, the defendant was charged with committing a gambling crime as stipulated in Article 303 paragraph (1) of the Criminal Code juncto Article 55 paragraph (1) 1 of the Criminal Code. The Public Prosecutor considers that the defendant has participated in offering or providing opportunities for unlicensed gambling games by providing facilities and infrastructure that are an important part of online gambling operations. The District Court at the first instance declared that the defendant was legally and convincingly proven guilty of committing the criminal act as charged and sentenced the defendant to death. Not satisfied with the verdict, the defendant filed an appeal. The case was then examined by the Medan High Court, which further strengthened the legal considerations and the decision of the court of first instance.

## **B. Analysis**

Analysis of the Medan High Court Decision Number 1018/PID/2023/PT MDN shows that the panel of judges systematically assesses the fulfillment of the elements of the gambling crime as stipulated in Article 303 paragraph (1) of the Criminal Code. The first element analyzed is the "unauthorized" element. The panel of judges affirmed that the defendant did not have any permission from the authorities to organize or facilitate gambling activities. Thus, the defendant's actions have fulfilled the elements of unlawful formally. However, from a doctrinal perspective, the application of Article 303 of the Criminal Code to online gambling also raises important issues related to the principle of legality (*nullum crimen sine lege*). Considering that this provision was originally designed to regulate conventional gambling, its application to

online-based gambling through extensive interpretation must be carefully limited to avoid the use of analogical interpretation that is prohibited in criminal law, as it may affect legal certainty

Next, the panel of judges analyzed the element of "offering or providing opportunities for gambling games". In the context of this case, the act of giving an opportunity is not interpreted narrowly as the act of directly interacting with gamblers<sup>6</sup>. The judge considered that the provision of places, facilities, and infrastructure to support online gambling is a tangible form of providing opportunities for gambling. This interpretative approach also reflects a normative tension between existing legal provisions and the development of cyber-based crimes. The absence of explicit regulation on online gambling creates a gap between legal norms (*das sollen*) and social reality (*das sein*), which is then bridged by judges through systematic and extensive interpretation. Without these facilities, online gambling activities would not be able to take place effectively. This approach shows that the panel of judges focuses on the substance of the act, not on the form or medium used. Even though gambling is carried out through online media, the substance of the act still meets the gambling qualifications as referred to in Article 303 of the Criminal Code. Thus, judges use systematic and extensive interpretation to adapt criminal law norms to technological developments, without ignoring the principle of legality<sup>7</sup>.

Another important aspect of this decision is the application of Article 55 paragraph (1) 1 of the Criminal Code regarding participation (*medeplegen*). The panel of judges considered that the crime of online gambling in this case was carried out jointly by more than one person with a structured division of roles. The defendant is positioned as a party that has a strategic role because it provides the main facilities and infrastructure that allows gambling activities to run. In the doctrine of criminal law, the concept of *medeplegen* requires the existence of conscious and close cooperation between the perpetrators, as well as the unity of will to realize the criminal act. The panel of judges considered that the defendant not only knew about the existence of gambling activities, but also actively contributed to the sustainability of these activities. These contributions are considered significant and inseparable from the actions of other actors<sup>8</sup>. Nevertheless, this reasoning can be critically evaluated, as the broad interpretation of participation may potentially extend criminal liability beyond direct perpetrators. Without clear limitations, such interpretation risks encompassing parties whose involvement is indirect or whose intent is not sufficiently proven. However, in the context of cybercrime, the reliance on electronic evidence requires stricter scrutiny to ensure its authenticity and reliability, particularly considering the potential risks of digital manipulation

The application of Article 55 of the Criminal Code in this case shows that criminal liability is not only imposed on the perpetrator who deals directly with gamblers, but also to those who are behind the scenes and have an important role in the structure of the crime. This approach is relevant in the context of modern crime which is generally carried out in an

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<sup>6</sup> *Sanctions for violation of Article 113 of Law Number 28 of 2014 concerning Copyright, as regulated and amended from Law Number 19 of 2002, that:*, n.d.; Dio Ashar W and Kevin D Zega, "Evidentiary Techniques in Trial 11," n.d.

<sup>7</sup> Law Enforcement, Against Perpetrators, and Gambling On, "Sultra Law Review" 02, no. 2 (2020): 1073–89.

<sup>8</sup> *PRINCIPLES OF CRIMINAL LAW TEXTBOOK FOR STUDENTS* Lukman Hakim, n.d.

organized manner and involves many parties with a clear division of duties<sup>9</sup>. In terms of evidence, the panel of judges based its belief on valid evidence as stipulated in Article 184 of the Criminal Procedure Code. The testimony of the witnesses, the testimony of the defendant, and evidence in the form of electronic devices and gambling support facilities are considered to be in accordance with each other and form a complete unit. The judge considered that the evidence was sufficient to legally and convincingly prove the defendant's guilt<sup>10</sup>. The judge's consideration in assessing evidence shows the application of the principle of careful and rational proof. The judge not only assesses the evidence separately, but also sees the relationship between one piece of evidence and another<sup>11</sup>. This approach reflects the application of the principle of judge's conviction based on valid evidence as stipulated in the criminal procedure law.

This ruling also reflects the important role of the judiciary in maintaining the effectiveness of criminal law in the midst of the development of technology-based crime. By placing online gambling providers as criminally responsible legal subjects, the panel of judges seeks to close the legal loopholes that can be exploited by criminals. This approach has a preventive value because it sends a message that any party that contributes to the occurrence of a criminal act can be held criminally responsible<sup>12</sup>. Overall, the Medan High Court Decision Number 1018/PID/2023/PT MDN shows the application of criminal law that is contextual, adaptive, and oriented towards substantive justice. This ruling not only confirms that online gambling remains an act prohibited by law, but also clarifies the limits of criminal liability for the parties involved in it<sup>13</sup>. Therefore, this decision has an important value as legal annotation, especially in understanding the application of Article 303 of the Criminal Code in conjunction with Article 55 of the Criminal Code against the crime of online gambling carried out in an organized manner<sup>14</sup>. This condition indicates a de facto expansion of criminal law norms through judicial interpretation. While such an approach may enhance the effectiveness of law enforcement, it also raises concerns regarding the limits of interpretation and the potential erosion of the principle of legality. Therefore, clearer and more specific legislative regulation is needed to ensure legal certainty and prevent overcriminalization.

## CONCLUSION

Based on the analysis of the Medan High Court Decision Number 1018/PID/2023/PTMDN, it can be concluded that the panel of judges appropriately and consistently applied the provisions of Article 303 paragraph (1) of the Criminal Code in conjunction with Article 55 paragraph (1) 1 of the Criminal Code against online gambling crimes committed in an organized manner. The judge did not limit the meaning of gambling to the conventional form, but focused on the substance of the act in the form of providing

<sup>9</sup> A Written Action, *The application of Article 55 of the Criminal Code in this case shows that criminal liability is not only imposed on the perpetrator who deals directly with gambling players, but also on those who are behind the scenes and have an important role in the*, n.d.

<sup>10</sup> Reference Books, *LAW OF PROOF IN CRIMINAL CASES Mustakim La Dee, S.H., M.H., C.L.A.*, n.d.

<sup>11</sup> W and Zega, "Evidentiary Techniques at the 11th Trial."

<sup>12</sup> Kelud Raya et al., *Evidence of Clues According to the Criminal Code in the PERSPECTIVE OF JUSTICE THEORY Dr. Kadi Sukarna, SH., M.Hum.*, n.d.

<sup>13</sup> References, *LAW OF PROOF IN CRIMINAL CASES Mustakim La Dee, S.H., M.H., C.L.A.*

<sup>14</sup> "Textbook of Principles of Criminal Law," n.d.

opportunities for gambling to occur without a license, which in this case was realized through the provision of online gambling facilities and infrastructure. The systematic and extensive interpretation used remains within the corridor of the principle of legality, because the elements of Article 303 of the Criminal Code are legally and convincingly proven. In addition, the application of the concept of participation (*medeplegen*) shows that criminal liability is not only imposed on the direct perpetrators, but also on parties who play a strategic role behind gambling operations. By placing the facility provider as the participating perpetrator, this ruling confirms that any significant contribution to organized crime can be held criminally responsible. This decision reflects the adaptation of criminal law to the development of technology-based crime and provides certainty and effectiveness of law enforcement against online gambling practices in Indonesia. However, this approach also raises critical concerns, particularly regarding the potential expansion of criminal law norms through judicial interpretation and its implications for the principle of legality. The use of extensive interpretation, although effective in addressing online gambling, must be carefully limited to avoid legal uncertainty and overcriminalization. Therefore, clearer and more specific legislative regulation is necessary to ensure consistency and legal certainty in the enforcement of criminal law against online gambling.

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