LEGALITY OF ELECTRONIC AGREEMENTS BASED ON THE CIVIL CODE AND THE LAW ON ELECTRONIC INFORMATION AND TRANSACTIONS

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ABSTRACT

Based on Article 1313 of the Civil Code, it is explained that an agreement is an act in which one or more people bind themselves to one or more other people. Technological developments have indirectly resulted in the birth of new forms of legal acts that were previously not regulated in laws and regulations, for example electronic agreements. This study aims to explain the legality of electronic agreements based on the Civil Code and the Electronic Information and Transactions Law. The method used in this study is normative legal research using a statutory regulatory approach. Based on Article 1320 of the Civil Code, it is stated that the conditions for a valid agreement are the agreement of the parties, the capacity of the parties, the existence of a certain subject matter, and certain subjects that are lawful. The agreement of the parties in the agreement is evidenced by the signatures of the parties. An electronic agreement is an agreement between the parties made through a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send, and/or disseminate electronic information using electronic signatures. Based on the Electronic Information and Transactions Law, a valid electronic agreement is an electronic agreement that uses a certified electronic signature.

Keywords: *Electronic Agreement, Legality, Electronic Signature*

INTRODUCTION

The word "agreement" comes from the word "promise," which in the Indonesian Dictionary is defined as a statement expressing a willingness and ability to act. The word "agreement" comes from the Dutch word "overeenkomst," which means agreement or agreement of wills (Ginting, 2022).

According to R. Subekti, an agreement is an event where one person promises to another person or where two people promise each other to do something. According to Wirjono Prodjodikoro, an agreement is a legal relationship regarding property between two parties, in which one party promises or is deemed to have promised to do something or not to do something, while the other party has the right to demand the implementation of that promise. According to Abdulkadir Muhammad, an agreement is an agreement by which two or more people bind themselves to do something in the field of property (Miru, 2020).

The legal basis that regulates agreements is the Civil Code (Susanty, 2022). Based on Article 1313 of the Civil Code, it is explained that an agreement is an act in which one or more people bind themselves to one or more other people (Harahap, 2022).

The development of information and communication technology has transformed human civilization globally. It has made the world borderless, resulting in significant social change within society. The development of information and communication technology offers numerous benefits in various aspects of human life. The advancement of information and communication technology makes it easier for people to stay informed about global developments (Batubara, 2017).

Apart from causing social change in society, the development of information and communication technology on the other hand has also caused changes in the law (Arvisya & Putra, 2025). The development of information and communication technology has indirectly resulted in the birth of new forms of legal acts which were not previously regulated in statutory regulations, for example electronic agreements (Hasanah & Basarah, 2023).

An electronic agreement is an agreement between parties made through a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send, and/or distribute electronic information using a signature consisting of electronic information that is attached, associated, or related to other electronic information that is used as a verification and authentication tool (Salim, 2021).

The development of information and communication technology, including the presence of electronic agreements, was then responded to by the birth of Law Number 11 of 2008 concerning

Information and Electronic Transactions which aims to (Iqsandri, 2024):

1. Enlightening the lives of the Indonesian people as part of the world information society.
2. Developing national trade and economy in order to improve people's welfare.
3. Increase the effectiveness and efficiency of public services.
4. Opening up broad opportunities for every Indonesian citizen to advance their thinking and abilities in utilizing and using information and communication technology as optimally as possible and responsibly.
5. Provide a sense of security and justice as well as legal certainty for organizers and users of information and communication technology.

Electronic transactions can be conducted in both public and private settings. Public electronic transactions include electronic transactions by government agencies, institutions designated by government agencies, between government agencies, between institutions designated by government agencies, between government agencies and institutions designated by government agencies, and between government agencies or institutions designated by government agencies and businesses. Private electronic transactions include electronic transactions between businesses, between businesses and consumers, and between individuals (Utama, 2021).

In their study entitled "The Legal Force of Electronic Agreements from the Perspective of the Civil Code and the Electronic Information and Transactions Law," Ni Luh Gede Mella Septiari and Ni Made Puspautari Ujianti from Warmadewa University state that electronic agreements fulfill the requirements for a valid agreement as stipulated in Article 1320 of the Civil Code, specifically regarding agreement, legal capacity, specific objects, and lawful causes. Furthermore, electronic agreements under the Electronic Information and Transactions Law have binding legal force as long as they are made using a reliable electronic system and meet the principles of transparency and accountability. However, in practice, legal issues regarding electronic agreements are still found related to proof, authentication, and dispute resolution mechanisms. Therefore, synchronization is needed between the Civil Code and the Electronic Information and Transactions Law to ensure legal certainty in electronic agreements (Septiari & Ujianti, 2025).

The difference between the research of Ni Luh Gede Mella Septiari and Ni Made Puspautari Ujianti and this research is that the research of Ni Luh Gede Mella Septiari and Ni Made Puspautari Ujianti discusses the legal force of electronic agreements, while this research discusses the legality of electronic agreements based on the Civil Code and the Electronic Information and Transactions Law.

FORMULATION OF THE PROBLEM

This study aims to explain the legality of electronic agreements based on the Civil Code and the Electronic Information and Transactions Law. Therefore, the problem discussed in this study is the legality of electronic agreements based on the Civil Code and the Electronic Information and Transactions Law?

RESEARCH METHODS

Legal research is a scientific activity using certain methods, systematics and thinking which aims to analyze and solve a problem (Suteki, 2018). The method used in this research is normative legal research using a statutory regulatory approach, namely the Civil Code and the Electronic Information and Transactions Law. Normative legal research is a scientific activity in analyzing statutory regulations (Arben, 2024). The data sources used in this study are secondary data, namely data obtained from laws and regulations, scientific journals, and legal literature. The data collection technique used in this study is a literature study, while the data analysis technique used in this study is qualitative analysis.

RESEARCH RESULTS AND DISCUSSION

The legal basis governing agreements is the Civil Code. Article

1320 of the Civil Code states that the conditions for a valid agreement are:

1. Agreement of the parties.
2. The competence of the parties.
3. There is a certain topic.
4. Certain halal staple foods.

First, the agreement of the parties. An agreement of will in an agreement usually begins with an offer by one party, followed by acceptance of the offer by the other party, thus forming an agreement. However, Article 1321 of the Civil Code stipulates that an agreement is not valid if it is made through mistake, coercion, or fraud. This means that the agreement of the parties in an agreement is considered invalid if it is obtained through mistake, coercion, or fraud.

Second, the capacity of the parties. Basically, everyone is considered competent to perform legal acts, including making agreements, except for those excluded by law, namely minors, people placed under guardianship, and people prohibited by law from performing certain acts. Based on Article 330 of the Civil Code, it is stipulated that a minor is a person who has not yet reached the age of 21 (twenty-one) years and a person who is not yet married. If a marriage is dissolved before a person reaches the age of 21 (twenty-one), then that person does not return to the status of a minor.

Third, there is a specific subject matter. The specific subject matter agreed upon is called the object of the agreement. The requirements regarding the object of an agreement in the Civil Code are that the object of the agreement must be a tradable good, the type of object of the agreement must be determined at the time the agreement is made, and the object of the agreement may be an item that will only come into existence at a later date.

Fourth, certain permissible principles. Parties are prohibited from entering into agreements regarding anything that is not permissible. The word "permissible" in the Law of Contracts does not mean permissible according to Islamic law, but rather prohibits parties from entering into agreements regarding objects that violate applicable laws and regulations, as well as moral norms and public order.

From the explanation above, it can be understood that electronic agreements that fulfill the provisions of Article 1320 of the Civil Code are legally valid.

The agreement of the parties in an agreement is evidenced by the signatures of the parties. An electronic agreement is an agreement between the parties made through a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send, and/or disseminate electronic information using electronic signatures (Sulaiman, Arifudin, & Triyana, 2020).

An electronic signature is a signature consisting of electronic information that is attached, associated, or linked to other electronic information that is used as a means of verification and authentication (Saparyanto, 2021).

Electronic signatures used in electronic agreements can be generated through various signing procedures. If the electronic signature is used to represent a business entity, the electronic signature is called an electronic seal (Wardani, 2024).

An electronic signature has legal force and valid legal consequences if it meets the requirements, namely (Irianti, Rahman, & Sahban, 2024):

1. Electronic signature creation data is related only to the signatory.
2. The data for creating an electronic signature during the electronic signing process is solely under the control of the signatory.
3. Any changes to the electronic signature that occur after the time of signing can be identified.
4. Any changes to the electronic information related to the electronic signature after the time of signing can be known.
5. There are certain methods used to identify the identity of the signatory.
6. There are certain ways to show that the signatory has given consent to electronic information.

Electronic signatures serve as a means of authentication and verification of the signatory's identity and the integrity and authenticity of electronic information. Electronic signatures include certified electronic signatures and uncertified electronic signatures (Nafi'a & Priyono, 2025).

A certified electronic signature is an electronic signature that meets the legal validity and legal consequences, using an electronic certificate issued by an electronic certification provider in Indonesia and created using a certified electronic signature creation device. An uncertified electronic signature is an electronic signature created without the use of an electronic certification provider.

The electronic signature creation data must specifically refer only to the signatory and be usable to identify the signatory. The electronic signature creation data can be created by an electronic certification provider. When creating an electronic signature, the signatory must maintain confidentiality and be responsible for the electronic signature creation data.

In the process of signing an electronic agreement, a mechanism must be implemented to ensure that the electronic signature verification data related to the electronic signature creation data is still valid and has not been revoked. In the process of signing an electronic agreement, a mechanism must be implemented to ensure that the electronic signature creation data is not reported lost, is not reported transferred to an unauthorized person, and is under the control of the signatory. Before signing an electronic agreement, the electronic information to be signed must be known and understood by the signatory.

The signatory's consent to the electronic information to be signed with an electronic signature must use an affirmative mechanism and/or other mechanism that shows the signatory's intent and purpose to be bound by an electronic agreement.

An electronic signature on electronic information must be created using at least the electronic signature creation data and include the time of signing. Changes to the electronic signature and/or electronic information signed after the time of signing must be known, detected, or recognized by a specific method or means.

The signatory may entrust electronic signature creation data to an electronic certification provider. Electronic signature creation data may only be entrusted to an electronic certification provider in Indonesia. If an electronic certification provider stores electronic signature creation data, the electronic certification provider is required to (Izzah & Sugandha, 2021):

1. Ensure that the use of electronic signature data is only within the control of the signer.
2. Using a certified electronic signature creation device in the process of storing electronic signature creation data.
3. Ensure that the mechanism used in using electronic signature creation data for electronic signatures applies a combination of at least 2 (two) authentication factors.

Before an electronic signature is used, the electronic certification organizer must ensure the initial identification of the signatory by having the signatory convey their identity to the electronic certification organizer, the signatory register with the electronic certification organizer, and the electronic certification organizer may confidentially transfer the signatory's identity data to another electronic certification organizer with the signatory's consent. The mechanism used in the use of electronic signature creation data for electronic signatures applies a combination of at least 2 (two) authentication factors. The verification process for signed electronic information can be carried out by examining the electronic signature verification data to trace any changes to the signed data.

Electronic signature preservation consists of certified electronic signature preservation and uncertified electronic signature preservation. Certified electronic signature preservation must use an electronic certificate created by an electronic certification provider in Indonesia, and certified electronic signatures contained in electronic information and/or electronic documents can still be validated even if the electronic certificate expires. Meanwhile, uncertified electronic signature preservation is created without using an electronic certification provider (Dewi, 2024).

Under the Electronic Information and Transactions Law, electronic agreements that use electronic signatures are legally valid. Valid electronic agreements must not only comply with Article 1320 of the Civil Code but must also be signed using a certified electronic signature. However, not everyone possesses an electronic signature and knows how to verify its legality.

Article 5 of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions stipulates that electronic information and/or electronic documents and/or printed copies of electronic information and electronic documents constitute valid legal evidence. This means that electronic agreements constitute valid legal evidence.

Based on Article 5 Paragraph (2) it is emphasized that electronic information and/or electronic documents and/or printed results of electronic information and electronic documents are an extension of valid evidence in accordance with applicable procedural law in Indonesia. This means that electronic agreements are an extension of valid evidence in accordance with applicable procedural law.

Based on Article 5 Paragraph (3) it is emphasized that electronic information and/or electronic documents are declared valid if they use an electronic system in accordance with the provisions stipulated in the Electronic Information and Transactions Law.

CONCLUSION

Based on Article 1313 of the Civil Code, it is explained that an agreement is an act in which one or more people bind themselves to one or more other people. Technological developments have indirectly resulted in the birth of new forms of legal acts that were previously not regulated in laws and regulations, for example electronic agreements. This study aims to explain the legality of electronic agreements based on the Civil Code and the Electronic Information and Transactions Law. The method used in this study is normative legal research using a statutory regulatory approach. Based on Article 1320 of the Civil Code, it is stated that the conditions for a valid agreement are the agreement of the parties, the capacity of the parties, the existence of a certain subject matter, and certain subjects that are lawful. The agreement of the parties in the agreement is evidenced by the signatures of the parties. An electronic agreement is an agreement between the parties made through a series of electronic devices and procedures that function to prepare, collect, process, analyze, store, display, announce, send, and/or disseminate electronic information using electronic signatures. Based on the Electronic Information and Transactions Law, electronic agreements that use electronic signatures are valid. A valid electronic agreement must not only comply with the provisions of Article 1320 of the Civil Code, but must also be signed using a certified electronic signature.

BIBLIOGRAPHY

Arben, A. (2024). Kedudukan Akta Notaris sebagai Akta Autentik dalam Hukum Perdata Berdasarkan Undang-Undang Jabatan Notaris. *ANDREW Law Journal, 3*(1), 11.

Arvisya, W. C., & Putra, M. A. (2025). Kekuatan Mengikat Perjanjian Elektronik dan Implikasinya terhadap Kepastian Hukum Transaksi Digital di Indonesia. *Media Akademik, 3*(11), 17.

Batubara, H. H. (2017). *Teknologi Informasi dan Komunikasi.* Yogyakarta: Deepublish.

Dewi, D. C. (2024). Tanda Tangan Elektronik sebagai Solusi Hukum Perikatan dalam Era Digital di Indonesia. *Letterlijk, 1*(2), 13.

Ginting, J. (2022). Kekuatan Mengikat Perjanjian Secara Lisan. *The Juris, 4*(2), 8.

Harahap, N. (2022). Perjanjian Menurut Kitab Undang-Undang Hukum Perdata. *Al-Hikmah, 3*(3), 12.

Hasanah, U., & Basarah, B. (2023). Transaksi On Line Menurut Hukum Perjanjian Dikaitkan dengan Perlindungan Konsumen di Indonesia. *Rechtsvinding, 12*(2), 17.

Iqsandri, R. (2024). Tindak Pidana Informasi Elektronik dan Transaksi Elektronik Berdasarkan Undang-Undang Nomor 1 Tahun 2024. *ANDREW Law Journal, 3*(2), 7.

Irianti, F., Rahman, S., & Sahban, S. (2024). Kekuatan Hukum Pembuktian Tanda Tangan Elektronik dalam Surat Perjanjian Pemerintah. *Journal of Lex Philosophy, 5*(2), 20.

Izzah, A. N., & Sugandha, W. (2021). Penggunaan Tanda Tangan Elektronik dalam Penyelenggaraan e-Government guna Mewujudkan Pelayanan Publik yang Efisien. *Journal of Law, Society and Islamic Civilization, 9*(1), 9.

Miru, A. (2020). *Hukum Perjanjian.* Jakarta: Sinar Grafika.

Nafi'a, Z. I., & Priyono, E. A. (2025). Perkembangan Hukum Perjanjian di Era Digital. *Ilmu Hukum Dinasti Review, 4*(5), 7.

Salim, S. (2021). *Hukum Kontrak Elektronik.* Jakarta: Rajawali Pers.

Saparyanto, S. (2021). Perkembangan Keabsahan Kontrak Elektronik di Indonesia. *Hukum dan Pembangunan Ekonomi, 9*(1), 7.

Septiari, N. L., & Ujianti, N. M. (2025). Kekuatan Hukum Perjanjian Elektronik dalam Perspektif Kitab Undang-Undang Hukum Perdata dan Undang-Undang Informasi dan Transaksi Elektronik. *Indonesian Journal of Law and Justice, 2*(4), 10.

Sulaiman, E., Arifudin, N., & Triyana, L. (2020). Kekuatan Hukum Digital Signature sebagai Alat Bukti yang Sah Ditinjau dari Hukum Acara Perdata. *Risalah Hukum, 16*(2), 11.

Susanty, A. P. (2022). Pencantuman Klausula Baku dalam Perjanjian Kredit di Perbankan Menurut Perspektif Hukum Perlindungan Konsumen. *ANDREW Law Journal, 1*(1), 6.

Susanty, A. P. (2024). Legalitas Perjanjian Elektronik Berdasarkan Undang-Undang Informasi dan Transaksi Elektronik. *Jotika Research in Business Law, 3*(2), 10.

Susanty, A. P. (2025). Keabsahan Perjanjian Kerja Secara Elektronik di Era Digital dalam Sistem Hukum di Indonesia. *Jotika Research in Business Law, 4*(2), 5.

Suteki, S. (2018). *Metodologi Penelitian Hukum.* Jakarta: Rajawali Pers.

Utama, A. S. (2021). Digitalisasi Produk Bank Konvensional dan Bank Syariah di Indonesia. *Justisia, 6*(2), 14.

Wardani, I. S. (2024). Kontrak Elektronik dalam Mekanisme Hukum di Indonesia. *Unes Law Review, 6*(3), 6.