

Legal Analysis of the Imposition of Criminal Sanctions Against Online Gambling Perpetrators From the Perspective of the Electronic Information and Transaction Law

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KEYWORDS

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ABSTRAK

This study examines the legal analysis of imposing criminal sanctions on online gambling perpetrators from the perspective of the Electronic Information and Transactions Law (UU ITE). The development of information technology has shifted the modus operandi of gambling from conventional to digital, creating complex legal challenges in criminal law enforcement in Indonesia. The purpose of this study is to analyze the criminal law provisions for online gambling crimes under the ITE Law and to assess the effectiveness of imposing criminal sanctions on online gambling perpetrators. The method used is normative legal research with a statutory approach and a conceptual approach, by adopting primary legal materials in the form of the Criminal Code, Law No. 1 of 2024 concerning the Second Amendment to the ITE Law, as well as secondary legal materials in the form of literature, journals, and related research results. The results of the study indicate that the regulation of online gambling crimes is covered in Article 27, paragraph (2), and Article 45, paragraph (2) of the ITE Law with a maximum prison sentence of 6 years or a maximum fine of IDR 1 billion. However, the effectiveness of law enforcement still faces obstacles in the aspects of evidence, cross-country jurisdiction, and limited resources of law enforcement officers. This study concludes that it is necessary to strengthen regulations, increase the capacity of law enforcement, and coordinate between institutions to increase the effectiveness of imposing criminal sanctions on online gambling perpetrators in Indonesia.

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INTRODUCTION

The rapid development of information technology has fundamentally transformed various aspects of human life, including law and social behavior. These advances have not only driven efficiency in economic activities and communication but have also given rise to new forms of crime that utilize cyberspace as their primary medium. Setiawan (2018) emphasized that the transformation of information technology has directly impacted the increasing complexity of criminal acts, particularly those based on electronic networks. One of the most obvious manifestations of this development is the proliferation of online gambling practices that exploit the internet as their main operational medium (Choi, 2018; Gainsbury, 2015; Kolandai-Matchett & Abbott, 2021; Lopez-Gonzalez et al., 2017; Sangwan, 2025). Permana et al. (2019) explained that online gambling is growing rapidly because it offers easy access, user anonymity, and minimal direct social control.

Online gambling demonstrates a shift in crime patterns from conventional models to digital forms that are more difficult to monitor. Pratama highlighted that gambling activities, previously conducted covertly in physical spaces, have now shifted to online platforms accessible across regions and countries (Abdullah et al., 2025; Ahyani et al., 2024; Pradika et al., 2024; Rahmat, 2025). This phenomenon demonstrates that online gaming technology is no longer simply a means of entertainment but has evolved into an illegal economic instrument with the potential to harm society. Permana (2019) stated that the characteristics of online gambling as a cybercrime pose a serious challenge for law enforcement, particularly in terms of establishing evidence, tracking perpetrators, and enforcing legal jurisdiction.

Under national law, gambling is defined as an unlawful act that violates moral norms and public order. Setiawan (2018) emphasized that the prohibition of gambling has long been regulated in the Indonesian criminal law system, both through the Criminal Code and through specific regulations in the field of information technology. The enactment of Law No. 1 of 2024 concerning Electronic Information and Transactions broadens the scope of regulations by affirming that any act of transmitting, distributing, or making accessible gambling content through electronic media is a criminal offense. Pratama assessed that this regulation is an important foundation in responding to the development of gambling crimes in the digital era, although its implementation still faces various obstacles.

The phenomenon of online gambling in tourist areas like Bali exhibits more complex dynamics. Wahyudi (2023) revealed that high internet penetration, cultural heterogeneity, and the mobility of local communities and foreign tourists have strengthened the normalization of online gambling practices among local communities. This situation is exacerbated by empirical evidence demonstrating the high turnover of online gambling networks operating in Bali. Detik.com (2023) reported that uncovering online gambling cases in Badung and Kuta Regencies demonstrated the significant turnover of funds in a short period of time. Antara (2024) also noted that nationally, hundreds of online gambling cases have been uncovered in a short period of time, indicating that this crime has developed into a large-scale cyber network.

Various previous studies have revealed that law enforcement against online gambling still faces structural and technical limitations. Setiawan (2018) found that action against online gamblers tends to be reactive and fails to address the root of the problem. Dewi and Darma (2024) emphasize the importance of increasing public legal awareness as a preventative measure that has not been optimally implemented. Kurniawan and Darma (2024) underscore the role of digital platforms in the dissemination of online gambling content, while Putra et al. (2024) emphasize the urgency of implementing the principles of strict liability and intermediary liability in cyber law. Based on these conditions, this study aims to legally analyze the imposition of criminal sanctions on online gamblers under the ITE Law and provide a conceptual contribution to strengthening criminal law enforcement in the digital era.

This study generally aims to analyze and examine legally the regulation and imposition of criminal sanctions on online gambling offenders from the perspective of the Law on Electronic Information and Transactions (UU ITE). Specifically, this study is directed to evaluate the effectiveness of criminal provisions in Article 27 paragraph (2) in conjunction with Article 45 paragraph (2) of UU ITE No. 1 of 2024, including identifying various obstacles in law enforcement practices such as electronic evidence and jurisdictional aspects. In addition, this study also aims to analyze the synchronization of UU ITE as a *lex specialis*

Legal Analysis of the Imposition of Criminal Sanctions Against Online Gambling Perpetrators From the Perspective of the Electronic Information and Transaction Law with the Criminal Code (KUHP) and Law No. 7 of 1974 to provide a conceptual contribution for strengthening criminal law enforcement in the digital era, particularly related to blocking mechanisms, the strength of electronic evidence, and the expansion of legal subjects in criminal liability.

RESEARCH METHOD

This research was conducted using normative legal research (normative legal research method). Normative legal research is a library research conducted by reviewing and analyzing legal materials sourced from laws and regulations, books, scientific journals, theses, and legal dictionaries related to the research problem. The laws and regulations used include the Criminal Code (KUHP), Law No. 1 of 2024 concerning Information and Electronic Transactions, Law No. 7 of 1974 concerning the Regulation of Gambling, and other implementing regulations relevant to law enforcement against online gambling crimes.

RESULTS AND DISCUSSION

Legal Basis for Criminal Imposition through the Electronic Information and Transactions Law

The legal basis for criminal imposition against online gambling perpetrators in the Indonesian legal system rests on the Electronic Information and Transactions Law No. 1 of 2024. This regulation was designed as a normative response to the development of digital technology that has given rise to new forms of crime, including gambling conducted through electronic systems. The ITE Law provides legal certainty by explicitly prohibiting the distribution, transmission, or access to electronic information containing gambling content.

Article 27 paragraph (2) of the ITE Law stipulates that any person who intentionally distributes, transmits, or makes accessible electronic information containing gambling content is committing a prohibited act. This provision is reinforced by Article 45 paragraph (2), which imposes the threat of imprisonment and/or fines for violators. This formulation of the norm demonstrates that lawmakers are not only targeting gamblers but also those involved in the distribution and facilitation of gambling content through digital media.

Systematically, the ITE Law occupies a special criminal law (*lex specialis*) position that overrides the general provisions of the Criminal Code if gambling is carried out using electronic means. This principle aligns with the principle of *lex specialis derogat legi generali* and has been recognized in various criminal law studies, which emphasize that the characteristics of digital crimes require special legal instruments that differ from conventional regulations (Nasyir & Tornado, 2025). Thus, the ITE Law serves as the primary legal basis for imposing criminal penalties for online gambling crimes.

Imposing Criminal Sanctions on Online Gambling Perpetrators Based on the Electronic Information and Transactions Law

These findings reveal that the imposition of criminal sanctions on online gambling perpetrators, as stipulated in the ITE Law, is not solely focused on the act of gambling but also on the use of electronic means as a means of crime. Criminal penalties in this context include the main perpetrators, facilitators, and electronic system managers who knowingly provide services or access to online gambling activities.

The application of criminal sanctions in Article 45 paragraph (2) of the ITE Law reflects the repressive and preventive objectives of criminal law. From a repressive perspective, criminal sanctions are intended to deter perpetrators. From a preventive perspective, the threat of criminal penalties serves as a social control instrument to suppress the misuse of information technology for gambling purposes. Previous research has shown that the application of the ITE Law is more effective than the Criminal Code in ensnaring online gambling perpetrators because it can reach actors operating behind digital systems (Laia, 2025).

However, the analysis also shows that the effectiveness of imposing criminal sanctions still faces technical challenges, particularly in proving the involvement of perpetrators using foreign servers, encryption technology, or virtual private networks. This situation requires increased capacity of law enforcement officers in the field of digital forensics and harmonization of policies between institutions to ensure optimal and consistent implementation of criminal sanctions.

Relationship with the Criminal Code and the Gambling Regulation Law

Regulations regarding criminal acts of gambling have long been regulated in the Criminal Code and Law No. 7 of 1974 concerning the Regulation of Gambling. These two regulations serve as a general legal basis, affirming that all forms of gambling are prohibited by law and contrary to public order and morality. However, developments in information technology have shifted gambling patterns from conventional to online forms, thus creating the need for more specific and adaptive regulations (Haryanto, A. 2020). The ITE Law No. 1 of 2024 serves as a *lex specialis* that complements, rather than replaces, the criminal provisions in the Criminal Code and the Gambling Regulation Law. Articles 303-303 bis of the Criminal Code prohibit gambling and impose criminal penalties for those who organize or participate in gambling. However, these articles are formulated in the context of conventional gambling and do not explicitly accommodate gambling conducted through electronic systems.

Law No. 7 of 1974 concerning the Regulation of Gambling strengthens the national gambling prohibition policy by emphasizing that all forms of gambling must be eradicated. This law legitimizes the state to take repressive and preventive measures against gambling practices. However, like the Criminal Code, this regulation does not yet technically regulate gambling conducted through digital media. Therefore, the Electronic Information and Transactions (ITE) Law is highly relevant because it explicitly regulates acts conducted through electronic systems, including the distribution and access to gambling content.

In law enforcement practice, the relationship between the Criminal Code, the Gambling Regulation Law, and the ITE Law is complementary. The Criminal Code and the Gambling Regulation Law serve as a general legal basis that affirms the illegal nature of gambling, while the ITE Law provides more operational normative tools for prosecuting gambling conducted through electronic means. Thus, the application of the ITE Law in online gambling cases reflects the principle of *lex specialis derogat legi generali*, without eliminating the relevance of classical criminal regulations.

Proof and Imposition of Sanctions Through Electronic Evidence

Evidence in online gambling cases has different characteristics from conventional gambling because all activities take place in the digital space and leave electronic traces. Therefore, electronic evidence plays a very crucial role in the evidentiary process to ensure

the fulfillment of various elements of criminal acts as stipulated in the ITE Law No. 1 of 2024. Article 5 paragraphs (1) and (2) of the ITE Law expressly recognizes electronic information and electronic documents as valid legal evidence (Pangaribuan, 2021).

In practice, electronic evidence in online gambling cases can include digital conversations, financial transaction histories, website access data, IP addresses, screenshots, and the results of digital forensic examinations of the devices used by the perpetrators. This evidence has strong evidentiary value as long as it meets the principles of integrity and authenticity as stipulated in Article 6 of the ITE Law. This principle emphasizes that electronic information must be reproducible in its entirety and its validity must be accountable (Wibowo, 2021). Provisions in the Criminal Procedure Code (KUHAP) regarding confiscation also apply to electronic devices used as a means of committing a crime. Articles 38 and 39 of the KUHAP provide the legal basis for the confiscation of objects used to commit a crime, including electronic devices such as mobile phones and computers. After confiscation, the devices can be analyzed using digital forensic methods to obtain relevant evidence (Arief, 2020). Proving the elements of Article 27 paragraph (2) of the ITE Law requires a link between the perpetrator and the distribution or access to gambling content. The digital footprint recorded in the electronic system is the basis for the judge to determine whether the elements of the crime have been fulfilled. Therefore, the imposition of criminal sanctions as stipulated in Article 45 paragraph (2) of the ITE Law can only be carried out if electronic evidence clearly and convincingly shows the perpetrator's involvement.

Forms of Criminal Responsibility

Criminal liability in online gambling crimes remains based on the general principles of criminal law, namely that a person can only be punished if there is a prohibited act and the perpetrator is at fault (Moeljatno, 2008). In the context of online gambling, criminal liability is not only imposed on the perpetrator who directly places the bet, but also on all parties involved in organizing and facilitating gambling through electronic systems. The organizer or operator who provides the online gambling platform can be held criminally responsible as the main perpetrator because they consciously and intentionally build and manage the system used for gambling activities. This element of intent can be proven through site management, financial transactions, and internal communications that indicate an intention to carry out illegal activities (Harahap, 2015).

Furthermore, facilitators, such as providers of promotional services, access, or payment systems, can also be held criminally liable if proven to have knowledge that the facilities provided are being used for gambling. This aligns with the concept of participation in criminal law, which allows for the punishment of anyone who participates in assisting in the commission of a crime (Hamzah, 2019). Players or users can also be held criminally liable if there is evidence that they intentionally participated in online gambling activities. Although their role differs from that of the operator, such participation still fulfills the elements of the crime of gambling as stipulated in applicable criminal provisions (Soesilo, 1995). Furthermore, criminal liability can also be imposed on corporations if online gambling is conducted through a legal entity that profits from the activity (Arief, 2017).

Regulations Regarding the Imposition of Criminal Sanctions on Online Gambling Perpetrators Based on the Electronic Information and Transactions Law

The Indonesian legal system's criminal sanctions for online gambling are based on specific provisions contained in the Electronic Information and Transactions (ITE) Law. This regulation serves as the primary legal instrument in responding to developments in digital technology, which have given rise to new forms of crime, including gambling conducted through electronic platforms. The cross-border, easily accessible, and difficult-to-monitor nature of online gambling necessitates a more adaptive and responsive legal framework than conventional gambling. To ensure legal certainty and effective enforcement, the ITE Law does not stand alone but is complemented by various implementing regulations and judicial guidelines, forming a comprehensive legal framework. Through a combination of normative regulations, administrative mechanisms, and judicial guidelines, the Indonesian legal system strives to provide a clear basis for imposing criminal sanctions on online gambling perpetrators in a proportionate and measured manner.

Normative Regulations in the ITE Law

The ITE Law No. 11 of 2008 and its amendments provide a comprehensive legal basis for the use of information technology, including in the context of combating online gambling crimes. The ITE Law emphasizes that every use of electronic systems must be based on the principles of legal certainty, prudence, and responsibility. These principles serve as the normative basis for the state in prosecuting acts that utilize digital media for activities prohibited by law, including gambling. The main provisions related to online gambling are contained in Article 27 paragraph (2) of the ITE Law, which expressly prohibits anyone from distributing, transmitting, or making accessible electronic information or electronic documents containing gambling content. This formulation broadens the scope of criminalization because it targets not only gambling perpetrators, but also parties who play a role in the distribution, facilitation, and provision of access to digital gambling content. Thus, criminal responsibility is not limited to direct perpetrators, but also includes supporting actors in the online gambling ecosystem.

Furthermore, the ITE Law emphasizes the obligation of electronic system providers to ensure that the platforms they manage are not used for illegal activities. This obligation reflects the legal responsibility of digital service providers who negligently or intentionally allow their platforms to be used for online gambling operations. This provision strengthens the law enforcement framework by providing a basis for administrative action, such as blocking sites and deactivating accounts, while also opening up opportunities for criminal liability if violations are committed systematically. Overall, the normative provisions in the ITE Law complement the criminal provisions in the Criminal Code. Through electronic-based monitoring and enforcement mechanisms, the ITE Law enables the state to address the rapid, dynamic, and cross-border nature of online gambling crimes, enabling law enforcement to be more effective and relevant to developments in information technology.

Compliance with the Gambling Regulation Act

The provisions regarding the imposition of criminal sanctions on online gambling perpetrators in the ITE Law are closely related to Law No. 7 of 1974 concerning the Regulation of Gambling. This regulation, as a national legal policy, affirms that all forms of gambling, without exception, are prohibited and must be eradicated by the state. Through this law, the state expressly classifies gambling as an act that threatens public order and public morals. In this regard, the regulation of online gambling through the ITE Law can be

understood as a further manifestation of the national criminal policy as formulated in the Gambling Regulation Law. Although the ITE Law regulates specific mechanisms related to electronic information, the substance of the online gambling prohibition remains in line with the spirit and objectives of the gambling restrictions stipulated in the 1974 Law.

The alignment between these two regulations is evident in the scope of criminalization. The Gambling Regulation Law affirms that all gambling activities are illegal, whether conducted directly or through other means. The Electronic Information and Transactions (ITE) Law then adapts this policy to technological developments by including the distribution and access to digital gambling content as a form of crime. Thus, the ITE Law does not create a new, separate crime, but rather expands the scope of prohibited acts according to the media and methods used by perpetrators in the digital era. The criminal sanctions provided in the ITE Law also do not conflict with the Gambling Regulation Law. Instead, these regulations strengthen the state's legitimacy in imposing criminal sanctions that are more relevant to the modus operandi of electronic gambling. Therefore, the relationship between the ITE Law and the Gambling Regulation Law demonstrates a harmonious and complementary relationship in enforcing the law against gambling in all its forms.

Settings for Terminating Access and Blocking Online Gambling Sites

Terminating access and blocking online gambling sites is a form of administrative law enforcement under the ITE Law, which serves to support the effectiveness of criminal law enforcement. This regulation aims to stop the spread of illegal content that facilitates gambling activities, while preventing the social impacts caused by easy access to digital-based gambling services. The legal basis for terminating access is contained in the ITE Law, which regulates the obligations of electronic system providers to maintain the security and order of digital service use. This provision legitimizes the state to take administrative action against unlawful content, including online gambling content as referred to in Article 27 paragraph (2) of the ITE Law.

Technical regulations regarding blocking are further elaborated in Government Regulation No. 71 of 2019 concerning the Implementation of Electronic Systems and Transactions. Article 100 of this regulation authorizes the government to terminate access to electronic information containing prohibited content. This authority is exercised through a control mechanism managed by the Ministry of Communication and Information Technology. Furthermore, Ministerial Regulation No. 5 of 2020 establishes operational procedures for terminating access, starting with the identification of illegal content and the verification process, through to the implementation of blocking by electronic system operators. Within this framework, digital platform operators have a legal obligation to follow up on government blocking requests. Blocking online gambling sites is not only repressive but also preventative. By limiting public access to gambling sites and applications, the state seeks to reduce public participation in online gambling activities. Furthermore, terminating access also supports criminal law enforcement by hindering the operations of perpetrators and facilitating the tracking of digital gambling networks. Therefore, blocking regulations are an integral part of the state's comprehensive strategy to eradicate online gambling.

The Role of the Supreme Court Circular Letter (SEMA)

The Supreme Court Regulation (SEMA) plays a crucial role in providing guidance to judges in examining, adjudicating, and ruling on criminal cases, including gambling cases. Although not included in the hierarchy of statutory regulations, the SEMA has binding administrative powers for judicial officials and serves as an interpretive guideline in the application of the law. SEMA No. 7 of 2012 contains legal provisions related to the handling of gambling crimes, one of which affirms that any game containing an element of chance can be classified as gambling. This affirmation is relevant in the context of online gambling, as the element of chance does not have to involve physical contact but can occur through electronic systems.

The Supreme Court also emphasized the importance of judges paying attention to developments in the modus operandi of gambling crimes. In online gambling, perpetrators often use technology to disguise their activities, necessitating contextual and adaptive legal interpretation. Furthermore, the Supreme Court strengthened the position of electronic evidence as a basis for judicial considerations, thereby reducing doubts in assessing the validity of digital evidence presented in court. Thus, the Supreme Court's role is not merely technical but also strategic in maintaining uniform legal application and ensuring that the handling of online gambling cases continues to reflect the principles of justice, legal certainty, and expediency.

The Position of the Electronic Information and Transactions Law as *Lex Specialis*

The ITE Law holds a position as *lex specialis* in the Indonesian criminal law system because it specifically regulates unlawful acts committed through electronic media. The principle of *lex specialis derogat legi generali* asserts that a specific rule overrides a general rule if it regulates the same object. In gambling, the Criminal Code regulates gambling in general, while the ITE Law regulates the specific form of gambling conducted through electronic means.

The main differences lie in the object and mode of regulation. The Criminal Code only regulates conventional gambling, while the ITE Law regulates the distribution, transmission, and access to digital gambling content. Furthermore, the ITE Law broadens the scope of legal subjects by including parties that facilitate, provide platforms, and manage electronic systems as parties that can be held criminally liable. The ITE Law also provides criminal sanctions that are more relevant to the characteristics of digital crimes, as stipulated in Article 45 paragraph (2). The existence of derivative regulations such as Government Regulation 71 of 2019 and Ministerial Regulation No. 5 of 2020 further emphasizes the ITE Law's position as a comprehensive and operational special legal regime.

Thus, the ITE Law does not eliminate the role of the Criminal Code, but rather complements and strengthens law enforcement against online gambling crimes. Its position as *lex specialis* ensures that modern technology-based crimes receive legal treatment appropriate to their complexity and impact in the digital age.

CONCLUSION

As obtained from the results of the analysis and discussion of the research, it is concluded that the regulation and implementation of criminal sanctions against online gambling perpetrators in the Indonesian legal system have fulfilled the legal provisions as stipulated in the ITE Law No. 1 of 2024. The provisions of Article 27 paragraph (2) in

conjunction with Article 45 paragraph (2) of the ITE Law expressly qualify the act of distributing, transmitting, and/or making accessible electronic information or documents containing gambling as a criminal offense. Through these regulations, criminal responsibility can not only be imposed on the perpetrators of gambling directly, but also on parties who facilitate and provide electronic means of gambling. In addition, the position of the ITE Law as *lex specialis* strengthens the effectiveness of law enforcement because it is supported by mechanisms for terminating access, blocking online gambling sites, recognition of electronic evidence, and judicial guidelines through the Circular Letter of the Supreme Court. However, the threat of criminal sanctions in the form of a maximum prison sentence of six years and a maximum fine of one billion rupiah still raises debate regarding its effectiveness in achieving the objectives of punishment, so that consistent and proportional law enforcement is needed to provide a deterrent effect and prevent the development of online gambling practices in Indonesia.

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