THE IMPLEMENTATION OF ELECTRONIC CONTRACT ON BUSINESS TO BUSINESS (B2B) ELECTRONIC TRANSACTION

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ABSTRACT

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Background: Before technology was widely used, transactions were carried out directly or non-electronically so that contracts in transactions were made in physical form. Due to the rapid development of the times, non-electronic transactions are now with a touch of technology turning into electronic transactions considering the many conveniences and cheapnesses obtained. As with direct transactions, sometimes in running a business, a contract agreement is needed.

Aim: This study analyzed the implementation of electronic contract on B2B electronic transaction.

Method: This study uses a normative legal research method with a normative juridical approach, while data collection techniques are carried out by exploring journals, books and applicable laws and regulations. The data obtained were then analyzed qualitatively and presented descriptively.

Findings: The results of the study show that the implementation of electronic contracts in electronic transactions is based on the need to make long distance agreements while still fulfilling the legal requirements of the agreement including agreements, people who are adults and there are no obstacles to carrying out legal actions, certain rights and legal causes. So it can be concluded that the electronic contract is similar to a conventional contract, the only difference being that the electronic contract is created through an electronic system process while the conventional contract is created not through an electronic system process but is directly created orally or in writing on a special paper.

KEYWORDS implementation, electronic contracts, electronic transactions

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INTRODUCTION

The significant growth and advancement of information technology has resulted in changes in the life activities of individuals in various sectors which have directly influenced the emergence of new forms of legal action. Indonesia as a nation that strives seriously to take advantage of the growth of science and technology to improve the standard of life of its country. Science and technology can penetrate various sectors of individual life, including the trade sector. Now there are many modern buying and selling transactions that use technology as a medium or what is often called electronic transactions or e-commerce (Kuspraningrum, 2011).

Trading business activities based on e-commerce often use agreements to carry out buying and selling transactions of goods offered with sites or social media. The agreement usually has the form of an electronic contract, based on Article 1 number 17 of Law Number 11 of 2008 concerning Electronic Information and Transactions, an electronic contract is an agreement of all parties built by the Electronic System (Putri, 2020). Then, referring to Article 1320 of the Civil Code, an agreement is only valid if it meets the subjective requirements (there is an agreement between all parties and all responding parties to make an agreement) and the
objective requirements and agreement are carried out with lawful reason). In conventional transactions where all parties meet, it is not difficult to review whether the agreement created meets that requirement. Problems arise regarding transactions carried out with no meeting of all parties (Tumangkar, 2016).

The recognition of electronic contracts into a form of agreement in the Indonesian Civil Code is still a thorny problem. Article 1313 of the Civil Code regarding the meaning of a treaty does not stipulate that an agreement must be created in writing. Article 1313 of the Civil Code merely explains that an agreement is an act in which one or more individuals bond themselves to one or more other individuals. When referring to this understanding, an electronic contract is considered to be a form of agreement that meets the provisions of Article 1313 of the Civil Code. But in its application, an agreement is generally interpreted as an agreement that is explained in written form and if necessary explained in the form of a notarial deed or in electronic form, including in the form of e-mail (Artanti & Widiatno, 2020).

Based on this background, this research has the aim of understanding how to implement electronic contracts. The implementation of an electronic contract is different from a conventional contract, in which the seller and the buyer must meet or know each other. In electronic contracts, all things can be done online, for example trade transactions in e-commerce. Although Law Number 11 of 2008 related to Electronic Information and Transactions (ITE Law) has discussed electronic buying and selling systems, the ITE Law still does not guarantee legal certainty, nor is it firm regarding the validity of electronic contracts. This is seen from Article 1320 of the Civil Law and the International Trade Law. Article 1320 of the Civil Law states the need to fulfill 4 conditions in transactions, regardless of their form (conventional or electronic), namely (1) the existence of an agreement between the two parties, (2) the ability to carry out legal actions, (3) reasons that are not illegitimate, and (4) have objects. On the other hand, the International Trade Law or the United Nations Commission on International Trade Law (UNCITRAL) Model Law on Electronic Commerce states that in an electronic contract must be (1) written, (2) it must still contain a signature (electronically, the most important thing is to understand each other's intent / intention of the event), (3) the original form of the contract (Kuspraningrum, 2011). Then, the discussion in this article is related to the legal theories of the validity of electronic contracts to answer problems with relevance and tested validity.

METHOD

This study uses normative legal research methods. Legal research through a doctrinal approach that has a normative nature, or normative juridical legal research or normative legal research in principle is an activity that then examines the internal aspects of positive law. While the normative juridical approach is an approach that refers to the law and the rules of the current law (Benuf et al., 2019). The technique of collecting data collection is carried out through interviews and exploring journals, books and applicable law rules. The data collection obtained after that is carried out is analyzed qualitatively and presented descriptively.
RESULTS AND DISCUSSION

Electronic Contracts

The form of development in treaty law includes the emergence of electronic contracts (e-contracts) which were introduced in the UNCITRAL Model Law on Electronic Commerce in the 1996 period. After that, in the period of 2008, through the promulgation of the ITE-Law, provisions related to e-contracts were recognized on positive law. However, when examined, the UNCITRAL model law and the ITE-Law do not provide an explicit explanation of the form of the e-contract. Thus, the understanding related to e-contracts is not the same and can lead to misunderstandings (Pratama, 2017).

An electronic contract is an agreement created through the use of an electronic system. As is known, a contract or agreement is a legal action between two parties or beyond them who both agree to carry out or not to carry out a. An electronic contract is a contract whose actions are implemented with real actions in the form of "electronic transactions" (Parmitasari, 2021). Meanwhile, according to Sinaga & Wiryawan (2020) electronic contracts are among the renewable variations in business deals including buying and selling or matters related to business. With the generality of many individual in Indonesia as economic actors including customers, producers and distributors, it is not realized that buying and selling which is carried out with an electronic system is a business agreement. Though e-commerce is a non-face as well as non-sign form of business.

Electronic Transactions

Electronic Transactions are legal actions carried out through computers, computer networks, and/or other electronic media (Bahri et al., 2019). Meanwhile, according to Setyawati et al. (2017), electronic transactions are a stage of buying and selling electronically for goods or services and information. The use of electronic transaction media in the world of buying and selling has a great impact on the international audience in general and the Indonesian audience in particular. For the Indonesian audience, this matter is related to a very crucial legal issue. The urgency of legal issues in the electronic transaction sector is especially in providing protection to all parties who transact with the internet. Meanwhile, according to the ITE Law in article 1 paragraph (2), what is meant by electronic transactions is "legal actions carried out using computers, computer networks, and/or other electronic media" (Utami, 2021).

Validity of Electronic Contracts

The validity of electronic contracts with a digital basis in franchise agreements is based on the Civil Code Book III and the Constitution of the Republic of Indonesia Number 19 of 2016 related to changes to the Constitution of the Republic of Indonesia Number 11 of 2008 concerning Electronic Information and Transactions (Hasanah & Waliain, 2021). A contract is said to have legal force, if in the making of the contract, it has been based on the terms of the validity of a contract as described in Article 1320 of the Civil Code is 1. Agree those who do the bonding of himself; 2. The ability of each company to maintain ties of legal value and legally recognized (based on ite law Article 18a); 3. A specific matter; 4. A lawful factor. So with the fulfillment of the terms of the contract, article 1338 of the Civil Code confirms that the agreement is a law for those who created it. However, if a contract is insufficient for the validity of an agreement described in article 1320 of the Civil Code, then the contract made by
the parties does not have the force of law, as emphasized in article 1335 of the Civil Code, which explains that "An agreement without cause, or that has been made for some false or prohibited cause, has no force", supported by article 1337 of the Civil Code which says that "A cause is prohibited, if it is prohibited by law, or if it is contrary to good decency or public order" (Amazihono, 2022). Relating to 'proficiency' in accordance with the ITE Law Article 18a Paragraph 2; it is stated that in the case of business actors, those who are considered capable of making an electronic contract are if the business actor has been certified and declared eligible by the Reliability Certification Body. Not only does it meet the element of proficiency to make electronic contracts, but it must also not violate national or international laws, and have proof of electronic signature (Kuspraningrum, 2011).

According to Akbar et al in Utami (2021) the emergence of Law Number 11 of 2008 related to Electronic Information and Transactions is the government's effort to provide protection that has permanent legal force on various electronic transactions that lead to ugliness. However, the emergence of losses in electronic transactions is sufficient for the elements contained in article 28 paragraph (1) of Law Number 11 of 2008 which was later abbreviated as the ITE Law.

CONCLUSION

The significant growth and advancement of information technology has resulted in changes in the life activities of organizations or businesses in various sectors, which have directly influenced the emergence of new forms of legal action. Indonesia as a nation that strives seriously to take advantage of the growth of science and technology to improve the standard of life of its country. Science and technology can penetrate various sectors of organizational life including the trade sector. Now there are many modern buying and selling transactions that use technology as a medium or what is often called electronic transactions or e-commerce.

The implementation of electronic contracts in electronic transactions is based on the need to carry out remote agreements while still meeting the legal requirements of the agreement including agreements, individuals who are adults and there are no obstacles to carrying out legal actions, certain rights and lawful causes. So it can be concluded that electronic contracts are similar to ordinary contracts, what makes a difference is only if electronic contracts are created with an electronic system while conventional contracts are created by not electronic systems but are directly created through oral or written on paper, especially.

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