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Implikasi Hukum Penipuan Hadiah Melalui Sms, Whatsaap dan Media Sosial (Legal Implications of Prize Scams Via Sms, Whatsapp, and Social Media)

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Abstrak : Perkembangan teknologi informasi dan komunikasi telah mengubah pola interaksi masyarakat sekaligus melahirkan berbagai bentuk kejahatan baru di ruang digital, salah satunya adalah penipuan berkedok pemberian hadiah melalui layanan pesan singkat (SMS), WhatsApp, dan media sosial. Modus ini memanfaatkan keinginan mendapatkan keuntungan secara instan, rendahnya literasi digital, serta sifat anonimitas di dunia maya untuk menipu korban dalam jumlah besar. Penelitian ini bertujuan untuk menganalisis pengaturan hukum yang berlaku serta implikasi hukum bagi pelaku, baik dari sisi pertanggungjawaban pidana maupun perdata, berdasarkan Kitab Undang-Undang Hukum Pidana Tahun 2023 serta Undang-Undang Informasi dan Transaksi Elektronik. Penelitian ini menggunakan metode penelitian hukum normatif dengan pendekatan peraturan perundang-undangan dan konseptual. Hasil penelitian menunjukkan bahwa perbuatan tersebut memenuhi unsur tindak pidana penipuan sekaligus pelanggaran ketentuan kejahatan siber, sehingga pelaku dapat dikenakan sanksi pidana dan kewajiban ganti rugi secara bersamaan. Namun dalam praktik penegakan hukum masih terdapat kendala berupa pelacakan identitas pelaku serta ketidaksinkronan penafsiran norma hukum.

Kata Kunci: Implikasi Hukum, Penipuan Hadiah, Kejahatan Siber, KUHP Baru, UU ITE.

Abstract: *The development of information and communication technology has transformed social interaction patterns while giving rise to new forms of crime in the digital space, including prize scams distributed via Short Message Service (SMS), WhatsApp, and social media. This scheme exploits the desire for instant gain, low digital literacy, and the anonymity of cyberspace to deceive victims on a large scale. This study aims to analyze applicable legal regulations and the legal implications for perpetrators, both in terms of criminal and civil liability, under the 2023 Criminal Code and the Electronic Information and Transactions Law. A normative legal research method is employed, using statutory and conceptual approaches. The findings confirm that such acts satisfy the elements of fraud as well as violations of cybercrime provisions, meaning perpetrators may face both criminal sanctions and civil compensation obligations. Nevertheless, law enforcement in practice still encounters obstacles such as tracing perpetrators' identities and inconsistent interpretation of legal norms.*

Keywords: Legal Implications, Prize Scams, Cybercrime, New Criminal Code, ITE Law.

INTRODUCTION

Background of the Problem

The development of information technology over the last two decades has transformed patterns of social, economic, and social control relations in society. The digital revolution has shifted communication from being limited by space and time to becoming real-time, global, and interactive. Initially dominated by Short Message Service (SMS), communication has now shifted to instant messaging applications such as WhatsApp and various social media platforms. Data shows that internet users in Indonesia have reached more than 215 million people, with WhatsApp used by over 90% of active internet users.

This progress has been accompanied by increased vulnerability to cybercrime, one of which is prize scams. Data from the National Cyber and Crypto Agency (BSSN) records hundreds of millions of cyberattack anomalies, while the Financial Services Authority (OJK) reports a surge in digital fraud complaints, most commonly using prize draw schemes. This phenomenon exploits the anonymity of digital spaces, low public digital literacy, and increasingly sophisticated social engineering techniques.

Normatively, such acts are regulated under Article 492 of the New Criminal Code (Law No. 1 of 2023) concerning fraud, as well as the Electronic Information and Transactions Law (ITE Law), particularly Article 28 paragraph 1 in conjunction with Article 45A paragraph 1 regarding false information, and Article 35 in conjunction with Article 51 paragraph 1 concerning manipulation of electronic data. However, comprehensive studies linking general criminal law provisions, digital-specific law, and dual legal implications—both criminal and civil—remain very limited. Therefore, this research is essential to ensure adequate legal protection against prize scams via SMS, WhatsApp, and social media.

Problem Formulation

1. What legal provisions govern prize scams via SMS, WhatsApp, and social media under the New Criminal Code and the ITE Law?
2. What are the legal implications for perpetrators of prize scams via SMS, WhatsApp, and social media, from both criminal and civil perspectives?

Research Objectives

1. To identify and analyze the legal provisions governing prize scams via SMS, WhatsApp, and social media under the New Criminal Code and the ITE Law.
2. To identify and analyze the legal implications for perpetrators of prize scams via SMS, WhatsApp, and social media, from both criminal and civil perspectives.

Research Benefits

Theoretical Benefits

1. To enrich the body of knowledge in criminal law, particularly concerning technology-based fraud regulation under the New Criminal Code and the ITE Law.
2. To enhance understanding of dual legal liability (criminal and civil) in cybercrime.

Practical Benefits

1. For Policymakers: To provide input for refining regulations that are more adaptive to evolving digital fraud schemes.
2. For Law Enforcement Officers: To serve as a legal reference in prosecuting perpetrators and determining appropriate forms of legal liability.

3. For the Public: To improve understanding of the legal basis and protections available to victims of digital fraud.

RESEARCH METHOD

1. Type of Research: Normative legal research, which examines literature and positive legal norms.
2. Approach: Uses the statutory approach and the conceptual approach.
3. Sources of Legal Materials:
   A. Primary Legal Materials: The 1945 Constitution, Law No. 1 of 2023 (New Criminal Code), ITE Law, Witness and Victim Protection Law, Civil Code, and other relevant regulations.
   B. Secondary Legal Materials: Books, academic works, expert legal opinions, and related journals.
   C. Tertiary Legal Materials: Legal dictionaries and encyclopedias.
4. Analysis Technique: Uses deductive reasoning to describe and analyze legal materials in order to answer the problem formulation.

RESULTS AND DISCUSSION

Legal Regulation of Prize Scams via SMS, WhatsApp, and Social Media under the New Criminal Code and the ITE Law

Prize scams conducted through digital channels are regulated cumulatively under two primary legal frameworks: general criminal law and specific cybercrime legislation.

Under the New Criminal Code (Law No. 1 of 2023):

Article 492 of the New Criminal Code explicitly governs the offense of fraud, which states: "Any person who, with the intent to unlawfully enrich themselves or another, by using a false name or false title, by deception, or a series of falsehoods, induces another to deliver property, grant a debt, or cancel a receivable, shall be punished by imprisonment for a maximum of 4 (four) years or a fine of a maximum of Category IV."

The elements fulfilled in this case are:

1. The existence of intent to unlawfully enrich oneself;
2. The use of deception or a series of falsehoods, namely claiming the victim has won a prize when this is untrue;
3. Inducing the victim to transfer funds, pay administrative fees, or disclose personal data.

Under the ITE Law (Law No. 1 of 2024 on the Second Amendment to Law No. 11 of 2008): This act also satisfies the elements of an offense under the ITE Law:

1. Article 28 Paragraph 1 in conjunction with Article 45A Paragraph 1: Any person who intentionally disseminates false and misleading information that causes consumer harm shall be punished by imprisonment for a maximum of 6 years and/or a fine of up to Rp 1 billion. A message falsely stating the victim is entitled to a prize constitutes false information disseminated through an electronic system.

2. Article 35 in conjunction with Article 51 Paragraph 1: Any person who intentionally and without authority manipulates electronic data so that it becomes incorrect or misleading shall be punished by imprisonment for a maximum of 8 years and/or a fine of up to Rp 2 billion.

Accordingly, the perpetrator's conduct falls not only under ordinary fraud but also constitutes cybercrime, meaning the stricter provisions may be applied pursuant to the principle of lex specialis derogat legi generali (special law prevails over general law).

Legal Implications for Perpetrators, Viewed from Criminal and Civil Perspectives

Perpetrators of prize scams through digital channels bear two separate and independent forms of legal liability: criminal liability and civil liability.

Criminal Legal Implications

1. Principal Penalties: Under Article 492 of the New Criminal Code, perpetrators may face imprisonment for up to 4 years or a Category IV fine; meanwhile, under Article 45A of the ITE Law, they may be sentenced to imprisonment for up to 6 years and/or a fine of up to Rp 1 billion. If the act is considered a continuing or cumulative offense, judges may impose a heavier penalty in accordance with applicable laws and regulations.
2. Additional Penalties: Perpetrators may also be subject to additional penalties, including revocation of certain rights, seizure of assets used to commit the crime, or public announcement of the court ruling.
3. Liability Attribution: Full liability rests with the perpetrator, whether acting individually or as part of a group or organization. Corporate criminal liability may also be established if the relevant legal requirements are met.

Civil Legal Implications

Pursuant to Article 1365 of the Indonesian Civil Code, any unlawful act that causes harm imposes an obligation on the perpetrator to compensate for such losses. The specific implications are as follows:

1. Obligation to Pay Compensation: The perpetrator must compensate the victim for all losses incurred, covering both material damages (funds transferred, administrative fees) and non-material damages (emotional distress, loss of trust).
2. Restoration of Rights: The victim may claim full reimbursement of funds or demand restoration to the condition that existed before the unlawful act occurred.
3. No Preclusion of Criminal Liability: Satisfaction of civil compensation obligations does not extinguish criminal liability; accordingly, the perpetrator may still be prosecuted in criminal court even after compensating the victim.

Challenges in Law Enforcement

Despite clear legal foundations, practical obstacles remain, including the anonymity of perpetrators, the use of false identities, and the fact that offenders may operate across multiple jurisdictions or even abroad. Tracking and prosecuting such cases therefore require inter-institutional and international cooperation..

CONCLUSIONS

1. Prize scams via SMS, WhatsApp, and social media satisfy the elements of fraud under Article 492 of the New Criminal Code, while also violating cybercrime provisions under the ITE Law. Accordingly, such acts may be prosecuted under the stricter provisions pursuant to the principle of lex specialis derogat legi generali.

2. Perpetrators bear dual and independent legal liability: criminal liability in the form of imprisonment and/or fines, and civil liability in the form of an obligation to compensate the victim; however, law enforcement in practice remains hindered by perpetrators' anonymity and cross-jurisdictional challenges.

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