

## Legal Analysis of The Criminal Act of Online Togel Gambling in Dirokan Hilir (Study of Decision No. 296/PID.B/2024/PN-RHL)

Rizki Ramadhan Pery<sup>1\*</sup>, Risdalina<sup>2</sup>, Kusno<sup>3</sup>

<sup>1,2,3</sup> Faculty of Law, University of Labuhan Batu, Indonesia

\*Corresponding author:

Email: [rizky23november@gmail.com](mailto:rizky23november@gmail.com)

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### Abstract.

*The development of digital technology has led to an increase in online gambling practices in Indonesia. This article discusses a legal analysis of online gambling crimes based on Decision Number 296/Pid.B/2024/PN Roka Hilir, in which the defendant Marhot Sitingjak was charged and sentenced for his actions as an online lottery bookie. This research uses a normative legal method based on court decision data. The results of the study show that the panel of judges stated that the defendant was legally and convincingly proven to have violated Article 303 paragraph (1) point 1 of the Criminal Code for offering and providing opportunities for gambling as a livelihood. This decision confirms the consistency of the application of the law to online gambling practices that are rampant in society. The Decision of the Roka Hilir District Court Number 296/Pid.B/2024/PN Rhl stated that the defendant Marhot Sitingjak was proven guilty of conducting online lottery gambling as a livelihood, with a prison sentence of 1 year and 8 months based on Article 303 paragraph (1) point 1 of the Criminal Code. This verdict was issued on August 22, 2024, by the Panel of Judges led by Ahmad Rizal, SH, MH, after examining the Public Prosecutor's alternative charges and trial evidence.*

**Keywords:** Online gambling; criminal law; Article 303 of the Criminal Code and court decisions.

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## I. INTRODUCTION

Gambling is a form of crime that has long been a concern in the Indonesian legal system because of the social, economic and moral impacts it causes. Technological advancements have made gambling activities increasingly easier through digital media, including online lottery games. This phenomenon presents new challenges for law enforcement in preventing and eradicating gambling crimes. Decision Number 296/Pid.B/2024/PN Roka Hilir provides a concrete illustration of online gambling practices carried out by the public and how law enforcement responded to these practices. In this case, the defendant Marhot Sitingjak was arrested by the Roka Hilir Police Mobile Brigade Team while recapping lottery numbers ordered by customers and placing them through the Raja Bandot online gambling site. The case began with the defendant's arrest on May 2, 2024, at 10:00 PM WIB at a palm wine stall on the Riau-Sumut Crossroad, Balam KM-37, Balai Jaya Kota Village, Balai Jaya District, Roka Hilir Regency, by the Roka Hilir Police Mobile Brigade Team. The defendant, a 41-year-old man from Ledong, North Sumatra, acted as an online lottery dealer through the Raja Bandot site with the ID account lidia123, receiving number orders via SMS, WhatsApp, or directly. The confiscated evidence included a blue ITEL cellphone, Rp. 1,714,000 in cash, a summary book, summary paper, a shoulder bag, and a pen. Gambling is a form of crime that has long received serious attention in the Indonesian legal system. This activity is not only considered to damage the moral fabric of society, but also has various negative impacts such as financial dependency, increased crime rates, and declining economic well-being of individuals and families.

Therefore, the crime of gambling is strictly regulated in the Criminal Code (KUHP), particularly in Articles 303 and 303 bis, which impose severe criminal penalties on perpetrators, organizers, and parties providing gambling opportunities. In the development of information technology today, gambling practices are no longer carried out conventionally, such as in certain houses or physical gambling places, but have been transformed into a form of online gambling. The use of digital media, applications, and illegal websites has made gambling increasingly accessible to the public, regardless of time and space. This convenience has led to a surge in online gambling cases in various regions across Indonesia, including Roka Hilir Regency. Online gambling crimes differ from traditional gambling. Besides being more difficult to detect,

online gambling typically involves cross-regional and even international networks, utilizing electronic means such as websites, mobile apps, and social media. This makes it a crime that requires a more adaptive and responsive law enforcement strategy to technological developments. Decision Number 296/Pid.B/2024/PN Rokan Hilir is a concrete example of how law enforcement officers are cracking down on online gambling practices at the regional level.

Based on the decision, defendant Marihot Sitinjak was arrested after being proven to act as an online lottery dealer using the gambling site "Raja Bandot." The defendant received lottery number orders from buyers, recorded them in a book, and placed them through his online gambling account, lidia123. The existence of evidence in the form of a cell phone, cash, and a book of records indicates that the defendant actively carried out the practice as a form of daily livelihood (based on the facts of the decision. This case is interesting to analyze because it illustrates how the provisions of Article 303 paragraph (1) 1 of the Criminal Code are applied in the context of digital-based gambling. In addition, the judge's considerations in assessing the element of intent, the defendant's role, modus operandi, and the social impact of online gambling are important aspects that must be studied to understand the effectiveness of criminal law enforcement against this type of modern crime. Thus, this study aims to examine in depth the judge's legal considerations in handing down a verdict against the defendant and to analyze whether the application of criminal articles is in accordance with legal facts and the principles of sentencing. This discussion is expected to contribute to the development of criminal law literature, particularly regarding online gambling, and serve as evaluation material in efforts to increase the effectiveness of law enforcement against technology-based crimes.

The problems in this research are as follows:

1. How does online lottery gambling affect criminal activity?
2. What is the legal basis for imposing criminal penalties for online lottery gambling based on decision No. 296/Pid.B/2024/PN-RHL?

## II. METHODS

This research uses a normative juridical method with the following approaches:

1. Statutory regulatory approach, namely examining the provisions of Article 303 of the Criminal Code as the basis for sentencing.
2. Case approach, namely directly analyzing the Rokan Hilir District Court Decision Number 296/Pid.B/2024/PN Rhl as a primary data source.
3. Analytical approach, namely conducting an analysis of the trial facts, witness statements, evidence, and the judge's considerations contained in the decision.

## III. RESULT AND DISCUSSION

The results of the analysis show that the Panel of Judges has legally proven all elements of Article 303 paragraph (1) 1 of the Criminal Code: intentionally offering online lottery gambling as a livelihood without a permit, with the fact of a red-handed arrest and a summary of the confiscated numbers. The sentence of 1 year and 8 months is lighter than the 3-year demand due to mitigating considerations such as confession and regret, while aggravating factors are the previous history of gambling and the social impact on the Rokan Hilir community. The discussion reveals the strength of the evidence based on police witnesses and physical evidence, although the alternative charge effectively anticipates the defendant's denial who claims to only drink palm wine. The "livelihood" element is fulfilled because the profit of IDR 2,000 per transaction is used for daily living, in accordance with Supreme Court jurisprudence on gambling as a profession. However, challenges have arisen in overseeing the Raja Bandot site's Singapore/Hong Kong servers, highlighting the need for national cyber regulation for cross-jurisdictional gambling.

### 1. Research Results Based on Court Decisions

Based on Decision Number 296/Pid.B/2024/PN Rokan Hilir, a number of legal facts were revealed during the trial, including:

#### ***a. Facts of Arrest and Evidence***

Defendant Marihot Sitinjak was arrested by the Rokan Hilir Police Mobile Brigade Team on May 2, 2024, at around 22.00 WIB at a palm wine stall in Balam KM 37. The arrest was made after the police received reports from the public regarding the rampant online lottery gambling at the location.

The confiscated evidence includes:

- 1 unit of Itel brand cellphone, blue color
- Cash Rp. 1,714,000
- Summary book and summary paper containing lottery numbers
- A sling bag and some pens

All of the evidence was confirmed by the defendant and witnesses at the trial.

#### ***b. Modus Operandi of Online Gambling***

The panel of judges found that the defendant actively acted as an online lottery dealer by:

1. Have an account on the Raja Bandot online gambling site with the ID lidia123 and password lidia123
2. Make an initial deposit of IDR 1,000,000 to place the buyer's order number.
3. Receive lottery number orders via SMS, WhatsApp, or directly.
4. Record these numbers in a summary book before posting them to the site.
5. Directing buyers to choose multiples starting from IDR 1,000.
6. Take a profit of Rp. 2,000 per transaction and earn daily income between Rp. 150,000 – Rp. 600,000.

The defendant admitted all the mechanisms of the online lottery game in court.

#### ***c. Judge's Assessment of the Elements of Article 303 of the Criminal Code***

The judge stated that the elements of the crime had been fulfilled, in particular:

1. The element of "Whoever" fulfilled because the defendant is a person who is legally responsible
2. The element of "Without Rights, Intentionally Offering or Providing Opportunities for Gambling Games as a Source of Livelihood" fulfilled because the defendant:
  - deliberately provide lottery installation services,
  - accept number orders and install them regularly,
  - earn daily profits, thus making gambling a livelihood.

#### ***d. Aggravating and Mitigating Considerations***

Aggravating factors:

- The defendant is a recidivist in a previous lottery gambling case.
- His actions disturbed the community.

Mitigating factors:

- The defendant admitted his actions and was cooperative.

#### ***e. Verdict***

The panel of judges sentenced:

1. 3 (three) years in prison,
2. The defendant's order remains in custody,
3. Evidence was confiscated for the state and destroyed

### **Discussion**

#### **a. Conformity of the Indictment with Legal Facts**

The Public Prosecutor used an alternative charge, but the judge chose to use the first charge, namely Article 303 paragraph (1) point 1 of the Criminal Code. This choice is considered appropriate because the evidence shows that the defendant offered and provided the opportunity to gamble directly to the public and made it a source of income.

This is proven by:

- a. the defendant's routine activity of recording and entering numbers,
- b. daily income from gambling activities,
- c. evidence that shows systematic work as a dealer.

Thus, the elements of the article are proven legally and convincingly.

**b. Online Gambling as a Form of Modern Crime**

This case shows that online gambling:

1. very easy to do with digital media;
2. involving non-cash transactions and overseas site accounts;
3. difficult to detect without public reports.

The judge succeeded in translating this form of modern crime into the legal construction of Article 303 of the Criminal Code, even though the article was drafted long before the internet era. This confirms that gambling, in any form, remains punishable when it fulfills the elements of chance and offering the opportunity to play as defined in Article 303 paragraph (3) of the Criminal Code.

**c. Intentional Analysis (Mens Rea)**

The defendant knowingly:

1. have an active gambling account,
2. make a deposit,
3. accept number orders,
4. calculate profits,
5. and make this activity a source of income.

This shows the presence of *dolus directus* (direct intent), not just negligence. The judge correctly assessed that the element of intent had been proven.

**d. Relevance of Recidivist Status**

The fact that the defendant had previously been convicted of a lottery offense strengthened the judge's reason for imposing a three-year prison sentence. The recidivist status indicates:

- the absence of a deterrent effect from previous punishments,
- there is a tendency for the defendant to make gambling a permanent job,
- high potential for repeat criminal acts.

This is in accordance with the theory of retributive punishment and special prevention.

**e. Effectiveness of Decisions in Eradicating Online Gambling**

This ruling has several implications:

1. Provides a deterrent effect for perpetrators and other members of society.
2. Demonstrate the seriousness of law enforcement officers in dealing with technology-based gambling.
3. Strengthening the position of Article 303 of the Criminal Code as the main instrument for eradicating gambling.
4. It will be an important jurisprudence in the future, especially in the case of online lottery which has a similar crime pattern.

Thus, this decision not only punishes the perpetrator, but also provides a moral and social message to the wider community. The relevant ITE article for online lottery gambling is Article 27 paragraph (2) of the ITE Law (currently Law 11/2008 in conjunction with Law 19/2016 and later updated to Law 1/2024), with criminal sanctions in Article 45 (2)/(3) of the ITE Law. In the discussion of the thesis/article, this article can be paralleled with Article 303 of the Criminal Code to show the basis for double punishment: the Criminal Code regulates "gambling" as a material act, while the ITE Law regulates its electronic content.

#### **IV. CONCLUSION**

Decision No. 296/Pid.B/2024/PN Rhl reflects consistent law enforcement against online gambling under Article 303 of the Criminal Code. Although the *modus operandi* has evolved, the element of "providing an opportunity to gamble" remains relevant and can be proven through digital evidence and testimony. The three-year sentence imposed has not deterred the defendant, therefore, a holistic approach from law enforcement is needed to address the complexities of online gambling, including collaboration with banks and internet service providers. The sentence of one year and eight months was deemed proportional, taking into account mitigating circumstances such as the defendant's confession and remorse, as well as the

aggravating circumstance of his prior criminal record. This case also highlights the challenges of law enforcement related to online gambling using foreign websites, emphasizing the need for strengthened regulations and synergy between law enforcement agencies to combat cross-jurisdictional cybercrime.

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