

# Ht-El System In Realizing The Escalation Of Electronic Certificates With Legal Certainty (Study Of The Land Office Of Karanganyar Regency)

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## Abstract

*This research addresses the following topics: (i) the implementation of the HT-el system at the Karanganyar Regency Land Office; and (ii) legal issues encountered while implementing the HT-el system at the Karanganyar Regency Land Office. This empirical study expands on describing the policy approach as well as micro-interactional effects. The research's findings are: First, the Karanganyar Regency Land Office implemented the HT-el system in accordance with Minister of ATR/BPN Regulation Number 5 of 2020, with empirical evidence of data recapitulation of the number of HT-el applications for the 2020 and 2021 periods, accompanied by risk management analysis. Second, the legal issues of implementing the HT-el system at the Karanganyar Regency Land Office include the substantive issue of a lack of implementing regulations as implementing guidelines and implementation parameters, the issue of structural apparatus lack of human resources overcoming network error problems, budgeting for repair and maintenance as the primary means of HT-el services, and socio-cultural issues; the public's lack of enthusiasm due to a lack of socialization and assistance regarding the ease of HT-el services. Suggestions for research include the Ministry of ATR/BPN issuing implementing regulations that accommodate the standardization parameters for the implementation of the HT-el system in the region, as well as the Head and Employees of the Land Office of Karanganyar Regency increasing socialization and assistance in the use of HT-el services and systems to the community, as well as employee training in overcoming network problems.*

**Keywords:** Certainty, Electronics, HT-el System, Karanganyar, Mortgage.

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## I. INTRODUCTION

The law catches up with societal dynamics, including the registration of mortgage rights, with particular attention paid to technological and informatics advancements. The government responded by issuing Ministerial Regulation ATR/BPN No. 5 of 2020 on Electronically Integrated Mortgage Services, which was implemented electronically (HT-el System). Thus, changes occur as a result of technological advancements in the context of land data efficiency and accountability. The goal is to implement electronic integrated mortgage services in order to improve mortgage services in the framework of public services that satisfy the ideals of transparency, timeliness, speed, convenience, and affordability, as well as to adapt legal advancements, technology, and community demands in the Considerations for Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 concerning Electronic Integrated Mortgage Services. Multiple certifications owing to incompatibility of physical and juridical facts are minimized when IT technology is strengthened as a land database that is available or easily accessible to the government and the public. It can create legal certainty in the form of easy access to physical and juridical facts matching on land that will be registered as a mortgage, and it can be accountable with an accessible database and backed by IT. [1] This must be attempted, because the legal certainty is meant to maintain the conformity of *das sein* with *das sollen*, [1], [2], [3], [4], and seek justice and benefit in it [5], [6]. The proportion of placing certainty with justice and benefit is currently also a benchmark, especially in recalling the urgency of the rule of law [7]. Therefore, government policies are also required to be able to accommodate the three aspects of the legal objectives, including in the implementation of the HT-el system.

In the case of HT-el registration, more accessible IT technology can provide legal certainty in the form of straightforward physical data matching with legal data, reducing mortgage registration errors. It is hoped that this implementation will establish a legal system for registering mortgage rights. There are still issues in practice, such as the success of HT-el registration being dependent on the legal structural aspect, namely the readiness of each regional Land Office. This is significant because, in the legal system, components of substance, structure, and legal culture must all work together to ensure that the law is applied

correctly [8]. The revocation of Ministerial Regulation ATR/BPN No. 9 of 2019 concerning Electronically Integrated Mortgage Services demonstrates the legal substance factor because the substance has not made a comprehensive arrangement regarding mortgage rights as regulated by Law No. 4 of 1996 concerning Mortgage on Land and Objects Related to Land. From the standpoint of persons who prefer traditional land certificates over computerized land certificates, the legal culture aspect has not been maximized. As a result, efforts must be made to improve the public's perception of electronic certificates, including the stages of service and registration of HT-el, as well as the benefits of electronic mortgage certificates. The aforementioned issues are intriguing to investigate. The author chooses the Land Office in Karanganyar Regency as the research location since there are still numerous issues with the process of HT-el registration. The provisions in Article 13 paragraph (3) to paragraph (6) of the Regulation of the Minister of ATR/BPN No. 5 of 2020 for checking the conformity of the requirements document and the concept of the HT-el Certificate tend to complicate the HT-el registration mechanism, lengthening the registration process and causing applicant losses. In the practice, despite the Head of the Land Office or appointed official validating the required documents and the concept of HT-el certificate using the HT-el system, it is regulated in Article 20 of the Ministerial Regulation of ATR/BPN No. 5 of 2020 that the Land Office is not responsible for the material truth of documents and if the documents are declared not original.

Those who send the required documentation are the ones who bear responsibility [9]. This is a potential problem that can create legal uncertainty and have implications for the legal protection of mortgage registrants and parties with an interest in the HT-el certificate. Thus, field clarification to the stakeholders implementing the HT-el policy at the Land Office of Karanganyar Regency became a parameter. This condition requires improvement because the inspection stage has vital urgency in the HT-el registration application process. The stages of verifying the validity of the required documents, as well as the concept of the HT-el Certificate, have the potential to make things difficult for creditors and debtors, as well as Land Deed Maker Officials (PPAT) and Notaries, to the point where they are feared to stifle investment by creditors with high-risk management. This is on top of the practical issues with networks, systems, and servers, as well as the stakeholders' incapacity to anticipate and follow up on these issues at the Karanganyar Regency Land Office. This research was to answer two problems: (i) how is the HT-el system implemented at the Karanganyar Regency Land Office; and (ii) what are the legal problems in implementing the HT-el system at the Karanganyar Regency Land Office.

## II. METHOD

With a policy approach and micro-interaction as a data collection instrument, this empirical research elaborates on the normative and implementation elements descriptively. This research was carried out at the Karanganyar Regency Land Office, using the aforementioned methodologies and data collection techniques. This research is unique in that it was conducted in Karanganyar Regency to describe the legal issues surrounding the implementation of the HT-el system.

## III. RESULTS AND DISCUSSION

### The Implementation of the HT-el System at the Karanganyar Regency Land Office

The primary data collection location is used to calculate the number of HT-el Applications at the Karanganyar Regency Land Office for the 2020 Period. The author gathers information from statistics at the Karanganyar Regency Land Office's study site. By updating the data as of December 31, 2020, data on the recapitulation of the amount of credit restructuring is obtained. The results of the data search based on statistics from the Karanganyar Regency Land Office are as follows:

**Table 1.** Recapitulation of the Number of HT-el Applications at the Karanganyar Regency Land Office for the 2020 Period.

No	Month	Frequency	Amount (Rp)
1	January	525	158.304.796.150
2	February	520	173.908.056.519
3	March	269	238.734.624.954

4	April	93	40.789.845.000
5	May	207	84.781.782.500
6	June	362	180.230.028.313
7	July	361	172.893.718.987
8	August	225	122.011.527.471
9	September	469	239.500.581.481
10	October	439	321.211.801.329
11	November	496	199.078.846.053
12	December	401	119.996.796.500
<b>TOTAL</b>		<b>3.470</b>	<b>1.732.366.762.704</b>

Understanding the preceding table, it can be deduced that the number of applicants requesting for HT-el registration at the Karanganyar Regency Land Office is quite big. According to statistics, a total of 3,470 people applied for HT-el registration. It indicates a figure of Rp. 1,732,366,762,705 in terms of the nominal filed from the application for the value of HT-el in 2020. The Covid-19 epidemic caused a decrease in HT-el requests in early April 2020. If data mistakes arise or are caused by problems during the transition from conventional HT applications to HT-el apps at the Karanganyar Regency Land Office, knowing this data can be a parameter that indicates a significant risk. Risk management is directly influenced by the notional quantity and number of candidates who apply for HT-el registration, especially from an operational standpoint. According to Anton Jumantoro, S.H., M.H., the high volume of HT-el application submissions necessitates supporting media for applications, such as systems and software, as well as applications that must be maintained effectively because the HT-el system still has a number of issues that obstruct the submission process. HT-el is a web-based application. If this is related to the quantity and nominal of the HT-el application submission, there is a chance of a problem [10]. Network difficulties turn into faults, lowering the legal certainty of HT-el certificates. In practice, the HT-el certificate is employed as a promise that plays a significant role in the engagement legally. The data gathered by updating the data as of October 31, 2021 provides the following recapitulation of the number of HT-el applications at the Karanganyar Regency Land Office for the 2021 Period:

**Table 2.** Recapitulation of the Number of Applications for Electronic Mortgage Rights (HT-el) at the Karanganyar Regency Land Office for the 2021 Period

No	Month	Frequency	Amount (Rp)
1	January	606	188.443.313.890
2	February	617	368.089.264.961
3	March	546	158.975.385.767
4	April	647	198.877.029.344
5	May	367	108.874.924.630
6	June	464	181.784.768.831
7	July	450	150.728.982.089
8	August	550	253.747.956.023
9	September	538	184.763.472.911
10	October	508	147.405.907.002
<b>TOTAL</b>		<b>5.293</b>	<b>1.941.691.005.448</b>

Statistical data with a deadline of 31 October 2021 indicates the same amount and nominal value, which is much higher due to a large increase. The total number of applicants who filed HT-el registration applications to the Karanganyar Regency Land Office for the 2021 period was 5,295. The nominal amount presented in the application for the value of HT-el also increased significantly, reaching Rp. 1,941,691,05,448. This is sufficient to demonstrate that the number and nominal quantity of applications has increased. As a result, knowing the HT-el registration application's statistical data.

### **Legal Problems in the Implementation of the HT-el System at the Karanganyar Regency Land Office**

First, substantive issues are listed as one of the components of Friedman's legal system. The rules and legal products that assist policy implementation are referred to as legal substance. In this situation, the legal substance that serves as the foundation for the Karanganyar Regency Land Office's implementation of the HT-el System is divided into central and regional dimensions. The central dimension refers to the

following: (i) Ministerial Regulation ATR/BPN No. 3 of 2019 on Electronic Signatures; (ii) Ministerial Regulation ATR/BPN No. 5 of 2020 on Electronically Integrated Mortgage Services; and (iii) Ministerial Regulation ATR/BPN No. 1 of 2021 on Electronic Certificates. Meanwhile, the regional dimension refers to the rules issued by institutions or stakeholders in the Karanganyar Regency, notably the Karanganyar Regency Land Office, in order to implement the HT-el system policy.

In implementing policies or enacting laws, the classification of regulations with central and regional dimensions serves as a guide. In actuality, laws and regulations at the national level have not been able to provide clarity on how they are implemented and realized in the regions. As a result, each region tends to improvise or develop with alterations dependent on each Land Office's capabilities. As a result, each region tends to improvise or develop with modifications based on its regional land office's capabilities. The Ministry of ATR/BPN has converted various public services, as outlined based on primary data and news reports. Electronic Mortgage Rights (HT-el), Land Value Zone Information (ZNT), Making Land Registration Certificates (SKPT), and Checking Land Certificates are among the traditional services that have been changed to electronic services in this scenario [11]. This necessitates a specific reference in the form of legislation. When reading the regulatory portion of the Ministerial Regulation of ATR/BPN No. 5 of 2020 concerning Electronic Integrated Mortgage Services, it is clear that it has not provided a minimum standardization of the implementation of the HT-el system in the regions.

Indeed, the classification of service changes necessitates clear, systematic, and legally accountable references. This provides legal certainty for electronic land certificates derived from the HT-el mechanism in various regions. The implication is that if the implementation of the HT-el system is based on the capabilities of each region without clear and continuous standardization, it will become problematic when the HT-el certificate issued in one region does not have the same mechanism as in other regions. As a result, legal certainty may be jeopardized due to regional differences or procedural flaws in the HT-el certificate. As a result, lack of technical guidance from the center on the implementation of the HT-el system in the Karanganyar Regency area is a major issue. The Karanganyar Regency Land Office's responsibilities as a stakeholder in the HT-el system's development is not accompanied by a standards reference for its implementation. This is significant since each region's ability to adjust to the transition from conventional HT registration to EL HT differs. If standardization is limited to regional capacities without a minimum limit as a standard for HT-el implementation, as ideally mandated by the central government through the Ministry of ATR/BPN, this criterion becomes meaningless. However, there is no word in the body of the existing statutory provisions that specifies that the HT-el system is implemented based on the conditions and capacities of each region or the Regional Land Office. This hasn't been able to give assurance in the form of measurable parameters, thus it can't be utilized as a reference for indications that the Land Offices of each region must meet in order to implement the HT-el system.

Second, structural barriers include: (i) human resource barriers in the form of flaws in the implementation of the HT-el System, which refers to structural apparatus elements; of course, it is necessary to continue to strive for forms of training to support the registration process with a good HT-el system in order to minimize errors and guarantee legal certainty from the HT-el certificate. One type of delay in average policy is dominated or influenced by the factor of improving the quality of human resources, particularly from bureaucracies that have not been implemented optimally, increasing the professionalism and performance of bureaucracies and their organizations, including the implementation of the HT-el system. Bureaucratic performance is a critical and decisive factor that must be carefully considered. This is because the level of performance position represents the level of success of policy implementation, including the transition from traditional HT registration to HT-el at the Karanganyar Regency Land Office [12]. Performance indicators as benchmarks must be aligned to respond to the shift in order to provide a guide on how to proceed with legal certainty in implementing the HT-el system. However, the preceding description will be in vain if the bureaucracy's performance remains poor or has not progressed in a more professional direction. The author discusses the HR impediments in the Karanganyar Regency Land Office's application of the HT-el System during its development. These roadblocks are linked to the system error barrier factor, especially if the data base or system base employed in the HT-el system implementation has network issues.

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However, the preceding description will be in vain if the bureaucracy's performance remains poor or has not progressed in a more professional direction. The author discusses the HR impediments in the Karanganyar Regency Land Office's application of the HT-el System during its development. These roadblocks are linked to the system error barrier factor, especially if the data base or system base employed in the HT-el system implementation has network issues. The applicant's HT-el registration application procedure is delayed due to network issues. It cannot be handled immediately in this scenario because network difficulties are a problem that requires specific attention. In an ideal world, the internal Karanganyar Regency Land Office has an IT team that can be optimized to cope with these issues. Network faults, on the other hand, are resolved by waiting for repairs or having external elements of the Karanganyar Regency Land Office repair them [12]. Because the problem necessitates the involvement of external elements from the Karanganyar Regency Land Office, the authors define it as a human resource obstacle. The Karanganyar Regency Land Office frequently has network problems in which the server or network experiences a mistake in the rectification of the applicant's file. This causes delays in the applicant's file being corrected. The implication is that the applicant and PPAT are unable to fix the file instantly, and as a result, the system closes the file, and the file cannot be published as HT-el since it is not found [12].

The timeline continues, and the Karanganyar Regency Land Office awaits repairs from external elements as planned; (ii) barriers to facilities include the ranks of implementing stakeholders as well as human resources as defined by laws and regulations, which are also known as structures. Structure is one of the most fundamental and physical parts of the legal system, serving as the framework or body that keeps the process contained [8]. However, facilities might be regarded in a broader sense as tools that help the implementing structure operate better. If there is no party or portion that functions as a form of implementer, a law's implementation will be futile. Ordinary rules will only remain so if they are not accompanied by an implementation mechanism [13]. The implementation process as intended includes the implementing apparatus as defined by the regulation's text, as well as infrastructure that serves as a tool for enforcing the legislation and achieving the goal of the regulation's creation. The legal structure is described as the physical manifestation of the law's execution; its presence is proportional to the rule of law. In the literature, it is assumed that the legal structure operates and moves in accordance with the legal substance's mandates. As a result, the legal structure can be described as a living or moving legal material that performs functions to attain goals. The author's highlighted impediments to facilities tend to be in the form of facilities in the sense of being tools that assist the operation of the HT-el system at the Karanganyar Regency Land Office. This comprises networks, servers, databases, and other items that aid in the installation of the HT-el system at the Karanganyar Regency Land Office. Indeed, the HT-el system aims to provide a variety of benefits to HT-el service consumers, particularly those in the Karanganyar Regency area. This is also in the interests of banks and PPAT because HT-el services can be used at any time and are not limited to the Karanganyar Regency Land Office's operating hours.

Furthermore, customers of the HT-el service are not required to visit the Karanganyar Regency Land Office, which is very important during the Covid-19 pandemic. In fact, through the Karanganyar Regency Land Office's HT-el system, HT-el service customers can independently activate and process applications; [10] and (iii) budget limits as perceived through the lens of budget inefficiency, which results in budget swelling or failure to meet budget allocation targets. Budget swelling can occur for a variety of reasons, including: (i) the larger the budget allocated for activities, the greater the opportunity to mark-up the budget; (ii) the lack of clarity between costs and revenues in activities or action implemented by the public bureaucracy; and (iii) there is a tradition of cutting the proposed budget in the budget planning process, which encourages people who submit a budget to overestimate their budget, and (iv) the tendency of the bureaucracy to allocate budgets on the basis of inputs or only physical facilities which creates an inefficient spending system [14]. Swelling of the budget will become more commonplace, resulting in a large budget for bureaucratic performance, which is becoming increasingly common as civil society's or community control's ability to regulate government actions deteriorates. In the practice, technological advancements can

be an impediment and have an effect on the large budget for supporting bureaucratic performance. These multi-procedures or excessive procedures are a common type of bureaucratic disease that can be found in a variety of public service agencies, including the availability and realization of the budget used to implement and run the HT-el system. This is also a symbolic issue that remains problematic and an impediment to developed countries testing their land registration mechanisms [15]. This barrier demonstrates that including the procurement of a website, server, or network as an instrument for implementing the HT-el system is heavily influenced by budget realization in the process.

Furthermore, in relation to these factors, the procurement of a website, server, or network as an instrument for implementing the HT-el system will face obstacles if the budget is not approved or is implemented late, affecting the overall procurement of websites, servers, or networks as an instrument for implementing the HT-el system, which is included in the Karanganyar Regency Land Office. The large budget is reasonable given that the development of information technology systems necessitates the use of expert resources and technicians who are experts in their fields. As a result, the budget is concerned not only with the realization but also with the network view. According to the data, the network error problem remains the hegemony of the problems that dominate HT-el registration at the Karanganyar Regency Land Office. Third, socio-cultural issues such as a lack of public enthusiasm for using the HT-el system and services as a result of a lack of socialization and community assistance in understanding the ease of HT-el services at the Karanganyar Regency Land Office.

#### IV. CONCLUSION

The implementation of the HT-el System at the Karanganyar Regency Land Office is carried out based on the Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 5 of 2020 concerning Electronic Integrated Mortgage Services and has been implemented with evidence in the form of empirical conditions for the implementation of the HT-el System at the Land Office Karanganyar Regency includes data on the recapitulation of the number of applications for Electronic Mortgage Rights (HT-el) at the Karanganyar Regency Land Office for the 2020 and 2021 periods along with an analysis of the implementation risk management.

The legal problems of implementing the HT-el system at the Land Office of Karanganyar Regency include substantial problems in the form of a lack of implementing rules as practice instructions or implementing instructions that become parameters for the implementation of the HT-el system in each region, including at the Karanganyar Regency Land Office, structural apparatus problems, namely the lack of human resources to overcome network error problems, as well as budget for repairs and maintenance as the main tools (tools) for HT-el services at the Karanganyar Regency Land Office, as well as socio-cultural problems in the form of lack of public enthusiasm in using HT-el systems and services due to lack of socialization and community assistance to understand the ease of HT-el services at the Karanganyar Regency Land Office.

#### V. ACKNOWLEDGMENT

The Author very grateful to Law University Universitas Islam Batik for the chance to research implementation and big thanks to all the part of this research which has assistance to complete this research.

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