

Legal Efforts of Conflicts Resolution in the Cash on Delivery System in E-Commerce Transactions in Indonesia



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ABSTRACT. This study aimed to analyze the legal efforts of conflict resolution in the *Cash on Delivery* system in *e-commerce* transactions in Indonesia. As will be discussed in this research is the development of *e-commerce* in Indonesia, payment systems in *e-commerce* in Indonesia, and legal efforts of conflict resolution in the *Cash on Delivery* systems in *e-commerce* transactions in Indonesia. This study used normative juridical research methods and research data used were secondary legal data consisting of primary legal materials and secondary legal materials. Based on the results of the study, it is known that *e-commerce* in Indonesia is developed rapidly, especially during the Covid-19 pandemic. Besides the development of *e-commerce* followed by the development of electronic payment systems in Indonesia, one of them is the *Cash on Delivery* (COD) system. However, this system creates a conflict between the parties involved in the electronic transaction. Legally, there are two ways of resolving conflict can be put forward, including non-litigation, which is done to achieve peace between the parties involved in the conflict, and if peace is not reached, legal remedies can be taken in litigation by the Buyer by taking civil law action because the Seller has defaulted as regulated in Article 1243 of the Civil Code. In addition, the Buyer can also take criminal litigation efforts by arguing that the Seller has committed a criminal act of fraud as regulated in Article 378 of the Criminal Code in conjunction with Article 28 paragraph (1) of the ITE Law. However, criminal litigation is carried out as a last resort in law enforcement or as an *ultimum remedium*.

KEYWORDS: Electronic Transactions; E-Commerce e; Cash on Delivery; Conflict

PRELIMINARY

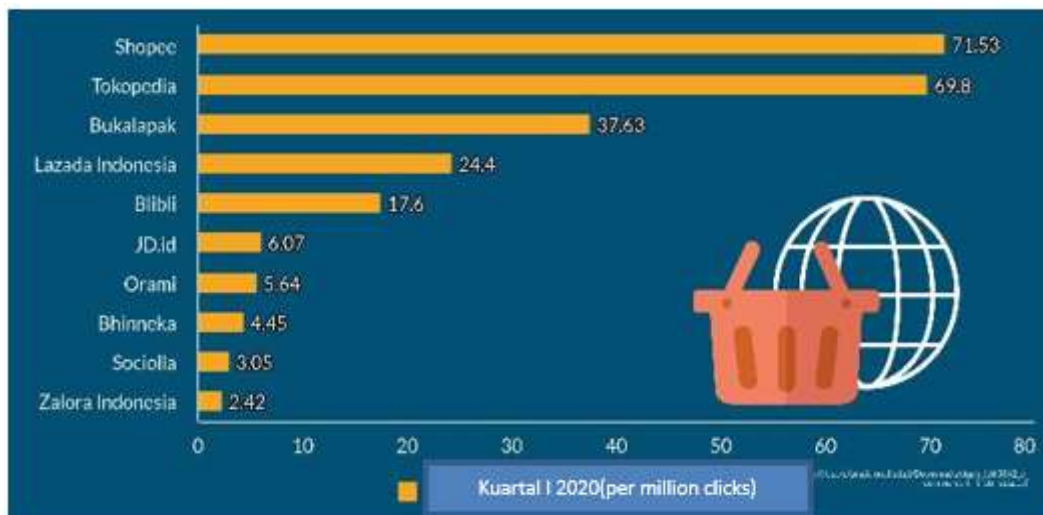
The internet is not only a means for finding information today. More than that, the internet which is part of developing technology brings significant changes. Humans and technology are inseparable. Technology has become a part of human life. The internet has a very broad scope, commonly called cyberspace. Humans as internet users maximize the use of the internet to support life, one of which is by creating transactions and trade via the internet. The internet allows humans to communicate and transact over long distances without having to meet face to face. In the field of information technology, the internet allows humans to communicate remotely and in the business field, the internet allows humans to conduct buying and selling transactions remotely, this business model is called *e-commerce*.¹

E-commerce is the distribution, purchase, sale, marketing of goods and services through electronic systems.² In Indonesia, *e-commerce* is growing day by day rapidly. There are ten *e-commerce* growing very quick in Indonesia, the tenth *e-commerce* ranked as Top 10 *e-commerce* in Indonesia in the first quarter of 2020, the following is the data that shows the ten top *e-commerce* in the first quarter of 2020 in Indonesia:

¹ Sutan Remy Sjahdeini, 'E-Commerce (Tinjauan Dari Perspektif Hukum)', *Jurnal Hukum Bisnis*, 6.6 (2018), 23–43. P. 27.

² Alexander Harsono, 'Understanding E-Business & E-Commerce And Their Relation To The Conceptual Framework Of Emarketing: Case Study', *Jurnal Informatika Dan Komputer*, 2.1 (2011), 50–64. P. 57.

Diagram I: Top Ten E-Commerce In The First Quarter Of 2020 In Indonesia



Source: Tempo.com³

Based on the data above, it is known that 10 e-commerce sites in Indonesia are ranked in the Top 10 e-commerce sites that are most visited by e-commerce consumers in Indonesia. E-commerce that occupies the top rank is Shopee which is a marketplace as a place for sellers to sell their products and buyers looking for products to buy.⁴ Transactions made through e-commerce in Indonesia, including those made by Shopee, are electronic transactions. Electronic transactions are what make a revolution in the payment system. Electronic transactions can use various payment media. In Indonesia, it is divided into three basic payment instruments, namely paper-based, card-based, and electronic-based.

E-commerce wants to reach a large market share, so now given the option of electronic transaction payments with Cash on Delivery (COD). The Cash on Delivery (COD) System will be an interesting thing to reach consumers who are still using cash as their main payment system and people of 50 (fifty) years or above. Those kinds of consumers usually have not been accustomed to using technology such as mobile phones. Another interesting thing is consumers can check the goods ordered when they receive the goods. Of course, this system is not immune from the problems, till lately happened some viral cases of consumers who feel cheated and eventually do not want to pay for goods bought on e-commerce.

One example of a case that went viral on social media regarding the problems caused by the COD system occurred in February 2021, a resident of Ampelu Tuo Village, Batanghari Regency, Jambi Province, refused to pay for the COD package he received because it was deemed not in accordance with his request. The video of the consumer scolded the courier also went viral on social media. In the video, consumers were seen arguing with a courier named Noppal. The reason consumers scolded the courier was not without reason. The consumer said that he did not receive an explanation from the courier on the process of returns or refunds. As result, consumers were not willing to accept the goods and pay for them. The consumer said that from the start he had been suspicious of the package delivered by the courier. According to consumers, the package box that was sent was marked with shoe size 40. However, after opening it, it turned out that the size was 41. Meanwhile, the number of the shoes ordered was size 39. Long story short, the package was finally brought back by Noppal to his office. Noppal had told consumers that the job of the COD courier was to only accept money from consumers. If consumers want to complain, Noppal advised consumers to contact the relevant store if they intended to exchange the item.⁵

Departing from the description above and examples of problems caused by the COD payment system, this paper analyzed the development of e-commerce in Indonesia, the payment system for e-commerce in Indonesia, and analyzed the COD payment system for e-commerce in Indonesia. This was intended to provide a juridical analysis of solving problems arising from the COD system. The problems discussed in this article were the development of e-commerce in Indonesia, the payment system for e-commerce in Indonesia, and a juridical analysis of the COD payment system in e-commerce in Indonesia. By knowing these problems, it was hoped that it will increase knowledge for writers and readers.

³ Firdhy Esterina Christy, 'Top 10 E-Commerce Di Indonesia Kuartal I 2020', *Tempo.Co*, 2020 <<https://data.tempo.co/data/907/top-10-e-commerce-di-indonesia-kuartal-i-2020>>.

⁴ Maria Regina Picaully, 'Pengaruh Kepercayaan Pelanggan Terhadap Niat Pembelian Gadget Di Shopee Indonesia', *Jurnal Manajemen Maranatha*, 18.1 (2018), 31–40. P. 35.

⁵ Conney Stephanie, 'Rentetan Kasus COD, Mengancam Kurir Hingga Paket Tak Bertuan', *Kompas.Com* (Jakarta, 2021) <<https://tekno.kompas.com/read/2021/06/07/09550027/rentetan-kasus-cod-mengancam-kurir-hingga-paket-tak-bertuan?page=all>>.

METHOD

This study used a normative juridical research method with a statutory approach.⁶ The research data used in this study was secondary legal data consisting of primary legal materials, namely the Civil Code (KUH Perdata) and the Legislation on the Implementation of e-commerce in Indonesia. This study also used secondary legal materials, namely books, journals, and mass media news related to the research problem.⁷ The research data was obtained through a literature study, then the research data were analyzed descriptively analytically by describing the research problems,⁸ then conclusions were drawn based on the laws and regulations.

DISCUSSION

The Development of E-Commerce in Indonesia

E-commerce is a system of distributing, buying, selling, marketing goods and services through an electronic system. E-commerce is a technology application that aims to meet the need to cut service costs. E-commerce is related to the capacity to buy and sell products and information on the internet as well as other online services. The development of e-commerce is partly because of its function that can support and simplify life. The convenience offered by e-commerce is the convenience of buying and selling products without having to meet in person.⁹

E-commerce in Indonesia is developing rapidly. Based on data released by *indonesia.go.id* e-commerce in Indonesia is experiencing development during the current Covid-19 pandemic, it is projected that *e-commerce* development in Indonesia will grow by 33.2% from 2020, the value is IDR 253,000. 000, 000 (two hundred and fifty-three trillion rupiahs) grew to Rp. 337,000,000,000,000 (three hundred and thirty-seven trillion rupiahs).¹⁰ The development of e-commerce during the Covid-19 pandemic due to the policies implemented by the Government, the Large-Scale Social Restrictions (*Pembatasan Sosial Berskala Besar – PSBB*) and the Enforcement of Restrictions on Community Activities (*Pemberlakuan Pembatasan Kegiatan Masyarakat – PPKM*). These policies prohibit people from going to shopping centers so that to meet their needs, people use e-commerce.

E-commerce is closely related to electronic transactions which have similarities with conventional transactions that are carried out by meeting directly between buyers and sellers. Electronic transactions are a development of conventional transactions that are carried out by utilizing the development of information technology, especially the internet in carrying out product buying and selling activities. Electronic transactions are a modern business model that is non-faced, that it does not present business actors physically, and non-sign, which means that they do not use an original signature.¹¹ Various legal policies have been established to regulate the implementation of electronic transactions in Indonesia. Such as criminal law policies against consumers in online buying and selling transactions (e-commerce) have been regulated in the Law on Information and Electronic Transactions. The Criminal Code is still used by law enforcement officers to resolve cybercrime cases. It is also regulated in the Consumer Protection Law because most of the victims of electronic transactions are online shop consumers, where most transactions are carried out using online transactions. In addition, Indonesia also has the latest Trade Law, namely Law Number 7 of 2014 concerning Trade where the criminal aspect is very severe and has a deterrent effect on the perpetrators.¹²

Law Number 19 of 2016 concerning Information and Electronic Transactions as an instrument for regulating the implementation of electronic transactions in Indonesia, including the implementation of e-commerce in Indonesia.¹³ The existence of e-commerce in the Trade Law is considered very important considering the potential and growth of e-commerce in Indonesia. Consumers as subjects who are closely related to e-commerce need protection. Legal protection is very much needed by consumers in electronic transactions in e-commerce, so to realize the legal protection in the implementation of electronic transactions in e-commerce cannot be separated from the Consumer Protection Law, namely Law Number 8 of 1999 concerning Consumer Protection which has become a reference for business actors in running their business in online media.¹⁴

⁶ Yulianto Achmad Mukti Fajar, *Dualisme Penelitian Hukum Normatif Dan Empiris* (Yogyakarta: Pustaka Pelajar, 2017). P. 76.

⁷ Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat* (Jakarta: PT Raja Grafindo Persada, 2004). P. 80.

⁸ Kornelius Benuf and Muhamad Azhar, 'Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer', *Gema Keadilan*, 7.1 (2020), 20–33. P. 25.

⁹ Rahadi Wasi Bintoro Rochani Urip, 'Alternatif Penyelesaian Sengketa Dalam Transaksi Elektronik (E-Commerce)', *Jurnal Dinamika Hukum*, 13.1 (2013), 123–138. P. 126.

¹⁰ Administrator, 'Bisnis E-Commerce Semakin Gurih (Terjadi Peningkatan Transaksi Berbasis Digital Seiring Banyaknya Waktu Orang Di Rumah Sepanjang Masa Pandemi)', *Indonesia.Go.Id*, 2021 <<https://www.indonesia.go.id/kategori/indonesia-dalam-angka/2534/bisnis-e-commerce-semakin-gurih>>.

¹¹ Antonius Dwicki Cahyadi, 'Yurisdiksi Transaksi Elektronik Internasional Menurut Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik', *Jurnal Wawasan Yuridika*, 3.1 (2019), 23–40. P. 24.

¹² Bambang Eko Turisno Roy Eka Perkasa, Nyoman Serikat P, 'Perlindungan Hukum Pidana Terhadap Konsumen Dalam Transaksi Jual/Beli Online E-Commerce Di Indonesia', *Diponegoro Law Journal*, 5.4 (2016), 1–13. P. 3.

¹³ Bambang Sadono Muhammad Junaidi, Kadi Sukarno, 'Pemahaman Tindak Pidana Transaksi Elektronik Dalam Undang-Undang No. 19 Tahun 2016 Tentang Informasi Dan Transaksi Elektronik', *Jurnal Budimas*, 2.2 (2020), 109–118. P. 112.

¹⁴ Diky Pariadi, 'Pengawasan E-Commerce Dalam Undang-Undang Perdagangan Dan Undang-Undang Perlindungan Konsumen',

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The position of e-commerce in the perspective of Law Number 19 of 2016 concerning Electronic Information and Transactions is an acknowledgment that the existence of electronic information and/or electronic documents is binding and recognized as legal evidence to provide legal certainty in proving electronic transactions contained in the addition of the explanation of Article 5 Paragraph (1) of the Law Number 19 of 2016 concerning Information and Electronic Transactions. In a transaction that is under the agreement but the goods received by the consumer are different, it can be classified as a default. As for legal remedies that can be taken, among others, civilly suing business actors or sellers under the pretext of default on buying and selling transactions carried out between the seller and the buyer.¹⁵

Electronic transactions which are legal acts cannot be separated from legal problems that occur. Default is one of the legal acts that injure the electronic transaction process. In Article 1233 of the Civil Code, if one of the parties in the agreement does not fulfill the achievements that have become an agreement (default) so that the consequences of the actions carried out result in material losses.¹⁶ To avoid default in electronic transactions in e-commerce, all parties must carry out their respective achievements. Not only the two parties who are directly involved in the transaction, namely the seller and the buyer but more than that, supporting parties such as expedition service providers or couriers must maintain and carry out their duties as well as possible.

Based on the description above, it is known that the development of e-commerce in Indonesia is very rapid. Data shows the value of transactions that occur in implementing electronic transactions on e-commerce in Indonesia has increased real high, especially during the Covid-19 pandemic, this happened due to several policies implemented by the Government, including PSBB and PPKM. The development of e-commerce in Indonesia has also been followed by the development of laws governing the implementation of electronic transactions in e-commerce. Initially, e-commerce in Indonesia was only regulated by the Civil Code. Currently, there are many special rules and implementing regulations related to electronic transactions and e-commerce in Indonesia, including the ITE Law, Consumer Protection Law, and Trade Law.

Payment System in E-Commerce

The development of electronic payment systems in e-commerce or what is known as e-payment in Indonesia is divided into three basic payment instruments. Paper-based, card-based, and electronic-based. Paper-based includes checks, billet gyro, and debit notes. Card-based includes debit cards, credit cards, and ATM cards. Electronic based includes e-money, internet banking, SMS banking, mobile banking, and electronic mail. The development of this payment system has both positive and negative impacts. The positive impact is increasing market interest, lowering operational costs, shortening production time, improving supplier management, expanding reach, increasing customer loyalty, accelerating money circulation, and stimulating economic growth and enthusiasm. The negative impact is that people can depend on technology and the danger is the shadow of Hitech white-collar crime or crimes committed through electronic media, this is done by perpetrators by utilizing the development of information technology to commit crimes.¹⁷

Some kinds of the e-commerce payment system according to experts Laudon and Traver including through online credit cards, there are five parties involved in the purchase, they are consumers, sellers, clearinghouse, the seller's bank (acquiring bank), and the bank which issues consumer credit cards. Through digital wallets (e-wallet), containing personal identity and digitally owned nominal money. Digital cash payments (digital cash), token numeric online- based deposit bank or account card credit. Payment by the stored-value online system, some online value storage systems require the cooperation of users to download a digital wallet, others sign up and then the transfer of an existing account to the account value is stored online, digital accumulating balance payment system, used to purchase digital content such as music tracks, book parts, articles, and by accumulating and later charged at the end of the month, digital check payments system, payments checking that has been digitalized, wireless payment system, payment of mobile.¹⁸

Not all payment systems above are available in Indonesia. The type of payment system *e-commerce* in Indonesia in 2014, using several means by percentage as follows:¹⁹

- a. Online Credit Card, used by 13 webs = 76,47%
- b. Internet Banking, used by 8 webs = 47,06%

Jurnal Hukum Dan Pembangunan, 48.3 (2018), 651–669. P. 662.

¹⁵ Hendro Saptono dan Herni Widanarti Dita Hapsari, 'Kedudukan E-Commerce Dalam Prespektif Undang- Undang Nomor 19 Tahun 201 Tentang Informasi Dan Transaksi Elektronik', *Diponegoro Law Journal*, 8.1 (2019), 211–223. P. 217.

¹⁶ Acep Heri Rizal RR Dewi Anggraeni, 'Pelaksanaan Perjanjian Jual Beli Melalui Internet (E-Commerce) Ditinjau Dari Aspek Hukum Perdataan', : : *Salam Jurnal Sosial Dan Budaya Syar-I*, 6.3 (2019), 45–58. P. 49.

¹⁷ Lita Sari Marita, 'Metode Pembayaran Belanja Dengan E-Commerce', *Cakrawala: Jurnal Humaniona*, 12.2 (2012), 105–113. P. 110.

¹⁸ Acep Heri Rizal RR Dewi Anggraeni, 'Pelaksanaan Perjanjian Jual Beli Melalui Internet (E-Commerce) Ditinjau Dari Aspek Hukum Perdataan', *Salam Jurnal Sosial Dan Budaya Syar-I*, 3.1 (2019), 223–238. P. 231.

¹⁹ A Bima Murti Wijaya Hestin Mulyasari, Thanh Thi Bi Dan, 'Analisis Jenis Sistem Pembayaran Elektronik Dalam Transaksi E-Commerce Di Indonesia', in *Seminar Nasional Teknologi Informasi Dan Komunikasi* (Yogyakarta, 2014). P. 36.

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- c. Online Debit Cards, used by 7 webs = 41,18%
- d. Online stored-value system, used by 4 webs = 23,53%
- e. Cell phone pulse, used by 3 webs = 17, 65%
- f. Digital cash, used by 1 web = 5,88%

There are many examples of digital payment methods or systems. One of the newest payments is with QRIS. QRIS is the Indonesian Standard Quick Response Code or standardization of payments using the QR method. The determination of QRIS is in principle in line with the National Payment Gateway (GPN) policy order which is aimed at realizing the implementation of a safe, efficient, smooth, and reliable payment system, prioritizing access expansion and paying attention to consumer protection, and being able to process all digital payment transactions.²⁰ We often find payments with QRIS at shopping and dining places, this method is now popular, especially during the Covid-19 pandemic because it can avoid direct contact with other people.

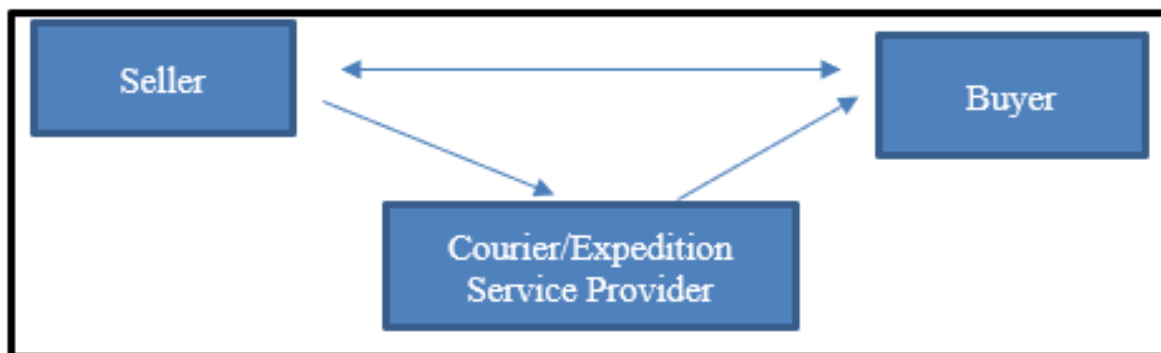
An example of a payment system that is widely used today is electronic money, regulated in Bank Indonesia Regulation No.11/12/PBI/2009 article 1 number 3. E-money is a non-cash payment instrument. E-money can be used to make payment transactions in small amounts making it easier to make transactions. Current conditions show that e-commerce transactions in Indonesia have grown to 42% from 2012-2015. The high number of e-commerce transactions makes the use of e-money high as well.²¹

In addition to using technology as a tool of payment, to reach a wider market share of the marketplace created an option to combine the latest technology with conventional payment means that the Cash on Delivery (COD) system. The term marketplace is embedded in the digital market, which is a place where sellers and buyers meet online.²² Buyers and sellers meet at an internet-connected marketplace, an agreement occurs at the marketplace, but payment is made conventionally using cash when the goods are delivered. Many Indonesians still like to use cash in transactions, so the COD option appears in electronic transactions and is often used by the Indonesian people.

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It is known that COD is a payment method where consumers can pay for orders in cash when the order arrives. Payment is made to the courier who delivered the goods. There are several parties involved in the COD system, namely the seller who trades the goods in the marketplace, the buyer who buys the goods, the courier service provider, and/or courier as the delivery person. The following shows the relationship between the parties involved in the COD payment method in e-commerce transactions in Indonesia.

Chart I: The Relationship of the Parties Involved in COD Payment Methods in E-Commerce Transactions



The chart above shows the legal relationship of the parties involved in the COD payment method in e-commerce transactions in Indonesia. The seller sells his product in the marketplace. The buyer buys the product and chooses the COD payment method, after an agreement is made on the product and the price, the seller sends the product being sold to the buyer through a Courier/Expedition Service Provider. After the product arrives at the Buyer and is accepted by the Buyer, the Buyer then makes a payment to the Courier/ Expedition Service Provider. Furthermore, the Courier / Expedition Service Provider sends a payment to the Seller after deducting the cost of shipping the product.

The implementation of electronic transactions is based on the agreement of the parties conducting the electronic transactions. In this case the transaction in e-commerce, the first agreement occurs between the seller and the buyer in

²⁰ Eelyn Angelita Pinondang Manurung dan Eka Ayu Purnama Lestari, 'Kajian Perlindungan E-Payment Berbasis Qr-Code Dalam E-Commerce', *Jurnal Penelitian Dan Pengembangan Sains Dan Humaniora*, 4.1 (2020), 28–36. P. 30.

²¹ Gusti Putu Lestara Permana Kadek Wulandari Laksmi P, 'Penggunaan E-Money Dalam E-Commerce Sebagai Pendukung Cash Less Society', *Jurnal Riset Akuntansi*, 8.2 (2018), 18–23. p. 21.

²² Julian Wright Andrei Hagi, 'Marketplace or Reseller?', *Management Science*, 16.1 (2015), 184–203. p. 184.

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the marketplace. This agreement is like a conventional transaction or buying and selling in general, but what makes the difference is the media used in the transaction, the media used is electronic media, so it is called an electronic transaction. The deal is already included agreeing on a payment system that will be used in the transaction electronically. Electronic transactions occur at the time of agreement between the parties, which may include, among others, checking of data, identity, personal identification number (PIN), or password. When making transactions electronically, the buyer will fill in or check the data, this is at once without an agreement on the occurrence of the transaction.²³

In electronic transactions known principle of consensual, a consensual principle is a form of agreement between the seller and the buyer. The principle of consensual is regulated in Article 1458 of the Civil Code which states that "the sale and purchase are deemed to have occurred between the two parties after both parties have reached an agreement on the goods and the price, even though the goods have not been delivered nor the price has been paid."²⁴ Article 1458 of this Civil Code, states that buying and selling are considered to have occurred if there is an agreement. The agreement in this trade contains prices and goods, even though the goods have not been delivered and the price has not been paid. The agreement in buying and selling online can be seen from the agreement of the buyer who presses a button such as "buy" and then chooses a payment method. After the process, the seller must process the goods that have been purchased by the buyer. Once the order is processed with the packing of goods, then the seller delivers the service provider expedition to later in the input receipt number so that sellers and buyers can track the whereabouts of the goods. The courier service provider is assisted by a courier in the buyer's area to distribute to the address listed. The courier will deliver to the buyer the goods according to the order agreed in the marketplace.

In the Trade Law, namely Law Number 7 of 2014 Article 1 paragraph 2, it is stated that trade through e-commerce is trade whose transactions are carried out through a series of electronic devices and procedures. Online buying and selling activities are virtual activities but have a very real impact even though the evidence is electronic. The legal approach in the form of the availability of positive law will provide certainty and as a basis for law enforcement in the event of a violation. The seller's responsibility to the buyer must be considered. In the COD system, when the goods received are different from those advertised, there will be a problem.²⁵

Conflicts generally arise when the courier is the delivery person for the package or goods purchased to the buyer. Buyers feel that the goods that come are not as advertised, different from their expectations. When feeling disappointed, the buyer feels entitled not to pay. Here the courier becomes the disadvantaged party because the buyer's disappointment will hinder the work of the courier who should only be in charge of delivering ordered goods and receiving cash payments according to the agreement in the marketplace where electronic transactions occur. As an example of the case described in the preliminary section, where the buyer does not want to pay for the product he has purchased to the courier because the condition of the product is not in accordance with what he bought, then in this case juridically, two ways to resolve the conflict can be stated, namely as follows.

The first is non-litigation settlement, of the problems that arise, all are resolved amicably or non-litigation. The buyer must apologize to the courier who was hit by an emotional outburst. In the case of the buyer who made threats with the samurai, it was resolved through the police but in the end, it ended peacefully. Furthermore, as a good seller, who must build consumer confidence in his business, the seller must apologize and if it is deemed negligence on the part of the seller, the product that is not suitable must be replaced with a product that is in accordance with what was purchased by the Buyer. So that if the things above have been done and reached peace by the parties, then the problem has been resolved. However, if peace is not reached, then litigation is taken to resolve the problem.

The second settlement is litigation, in that case where the Buyer does not want to pay for the goods he bought from the seller to the courier because the condition of the goods is not in accordance with what has been agreed on in the marketplace, it can be stated legally based on Article 1458 of the Civil Code sale and purchase has occurred between the seller and the buyer after both parties reach an agreement on the goods and the price, even though the goods have not been delivered or the price has not been paid. So, in this case the buyer must pay the price of the product he bought even though the conditions are not suitable to the courier. However, after payment occurs, the buyer can take legal action. The legal remedies can be civil or criminal.

Legal Efforts in Civil Law, buyers can file a claim for default as regulated in Article 1243 of the Civil Code, to the seller as a Defendant and include a Courier / Expeditionary Service Provider as a Co-Defendant. In the Posita explained in detail the reasons for the breach of contract lawsuit filed and shall state that the seller is in default due to deliver a product that is not equal to that agreed in the marketplace. Furthermore, the error of the Courier / Expeditionary Service Provider must also be stated in the Posita, explicitly that the Courier / Expeditionary Service Provider does not check the goods delivered carefully and carefully. So that the

²³ Silviasari, *Penyelesaian Sengketa Konsumen dan Pelaku Usaha dalam Transaksi E-Commerce Melalui Sistem Cash On Delivery*, (Yogyakarta: Media of Law and Sharia, 2020), Vol. 1, No. 3, p.151-161.

²⁴ Dhira Utari Umar, 'Penerapan Asas Konsensualisme Dalam Perjanjian Jual Beli Menurut Perspektif Hukum Perdata', *Lex Privatum*, 8.1 (2020), 38-48. p. 38.

²⁵ Rasyid Rea Kurniawan, 'Tinjauan Yuridis Terhadap Perjanjian Jual Beli Secara Online Di Olx.Com Dengan Sistem Cash On Delivery (COD)' (Universitas Muhammadiyah Surakarta, 2016). P. 45.

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Courier / Expedition Service Provider in this case does not carry out the principle of prudence in carrying out its business activities. In the Petition section, it must be stated that the Seller must be declared in Default and the agreement must be declared null and void. Furthermore, after entering the trial process, it must be proven in the trial the things that have been postulated in the posita.

In criminal legal remedies, Buyers can argue that the Seller has committed a criminal act of fraud as regulated in Article 378 of the Criminal Code regulates fraud and Article 28 paragraph (1) of the ITE Law regulates only to the extent of false and misleading news that causes consumer losses in electronic transactions. However, this criminal law effort is carried out as a last resort, this is based on the principle of criminal law, namely as an *ultimum remedium*, which means that criminal law should be the last resort in law enforcement.

CONCLUSION

The development of e-commerce in Indonesia is very rapid, especially during the Covid-19 pandemic, this is due to several policies implemented by the Government, including PSBB and PPKM. The development of e-commerce in Indonesia has also been followed by the development of laws governing the implementation of electronic transactions in e-commerce. Besides the development of e-commerce followed by electronic payment systems in Indonesia which are divided into three bases of payment instruments. Paper-based, card-based, and electronic-based. For anticipating a broader market, the marketplace provides a system of payment by Cash on Delivery (COD). However, this system leaves problems such as an irresponsible seller sending goods that do not match or an irresponsible buyer not wanting to pay for goods that have been received and opened. So, in this case, legally, two ways to resolve the conflict can be put forward, including non-litigation, which is done to achieve peace between the parties involved in the conflict, and if peace is not reached, legal remedies can be taken in litigation by the Buyer by making efforts. civil law because the Seller has defaulted as regulated in Article 1243 of the Civil Code. In addition, the Buyer can also take criminal litigation efforts by arguing that the Seller has committed a criminal act of fraud as regulated in Article 378 of the Criminal Code in conjunction with Article 28 paragraph (1) of the ITE Law, but criminal litigation legal remedies are carried out as a last resort in law enforcement or as *ultimum remedium*.

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<<https://www.indonesia.go.id/kategori/indonesia-dalam-angka/2534/bisnis-e-commerce-semakin-gurih>>
- 2) Andrei Hagiu, Julian Wright, 'Marketplace or Reseller?', *Management Science*, 16.1 (2015), 184–203
- 3) Antonius Dwicki Cahyadi, 'Yurisdiksi Transaksi Elektronik Internasional Menurut Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik', *Jurnal Wawasan Yuridika*, 3.1 (2019), 23–40
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