Penerapan Hukum Berdasarkan Asas *Lex Spesialis Derogat Legi Generalis* Terhadap Terdakwa Tindak Pidana Perjudian Melalui Media Elektronik (Studi Pada Putusan Nomor 363/Pid.Sus/2025/PN Pdg)

Martha Pratama, 24151084, Program Studi S1 Ilmu Hukum, Fakultas Hukum, Ilmu Sosial dan Humaniora, Universitas Dharma Andalas

ABSTRAK

Pasal 27 Ayat (2) Undang-undang Nomor 1 Tahun 2024 tentang Perubahan Kedua Atas Undang-undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik mengatur terkait tindak pidana perjudian yang dilakukan secara online. Pada perkara Putusan Nomor 363/Pid.Sus/2025/PN Pdg terdapat fakta hukum yang terungkap bahwa terdakwa melakukan perjudian menggunakan Handphone. Dalam putsuan ini hakim berpendapat bahwa terdakwa melanggar Pasal 303 Bis Ayat (1) ke-1 KUHP. Rumusan masalah dalam penelitian yaitu: 1). Bagaimanakah penerapan hukum berdasarkan asas *lex spesialis derogat legi generalis* terhadap terdakwa tindak pidana perjudian melalui media elektronik?. 2). Bagaimanakah pertimbangan hakim dalam penerapan hukum berdasarkan asas *lex spesialis derogat legi generalis* terhadap terdakwa tindak pidana perjudian melalui media elektronik?**.** Metode penelitian yang digunakan adalah yuridis normatif. Data dalam penelitian diperoleh melalui studi kepustakaan. Adapun hasil penelitian menunjukkan bahwa 1) Penerapan hukum berdasarkan asas *lex spesialis derogat legi generalis* terhadap terdakwa tindak pidana perjudian melalui media elektronik adalah terdakwa terbukti melanggar Pasal 303 bis Ayat (1) ke-1 KUHP sebagaimana dakwaan Jaksa Penuntut Umum dimana terdakwa menggunakan kesempatan main judi yang diadakan tanpa izin sehingga hakim menjatuhkan pidana kepada terdakwa selama 7 (tujuh) bulan. Fakta persidangan menunjukkan bahwa tindak pidana dilakukan melalui media elektronik dengan menggunakan situs perjudian daring, telepon genggam dan metode pembayaran QRIS. Oleh karena itu, penerapan hukum dalam putusan tersebut lebih berorientasi pada ketentuan umum dalam KUHP dan belum sepenuhnya mengimplementasikan asas *lex specialis derogat legi generalis*. 2) Pertimbangan hakim dalam penerapan hukum berdasarkan asas *lex spesialis derogat legi generalis* terhadap terdakwa tindak pidana perjudian melalui media elektronik terdiri dari pertimbangan yuridis dan non yuridis. Pertimbangan yuridis meliputi surat dakwaan Jaksa Penuntut Umum, keterangan saksi, keterangan terdakwa, barang bukti, serta terpenuhinya unsur-unsur tindak pidana berdasarkan alat bukti yang sah, sehingga hakim memperoleh keyakinan bahwa terdakwa terbukti secara sah dan meyakinkan melakukan tindak pidana perjudian. Sementara itu, pertimbangan non yuridis didasarkan pada keadaan yang memberatkan, yaitu perbuatan terdakwa bertentangan dengan program pemerintah dalam pemberantasan penyakit masyarakat, serta keadaan yang meringankan berupa terdakwa belum pernah dihukum, mengakui dan menyesali perbuatannya, serta bersikap jujur dan sopan selama persidangan.

Kata Kunci: *Lex Spesialis,* Tindak Pidana, Perjudian, Media Elektronik

Legal Application Based on the Principle of Lex Specialis Derogat Legi Generali Regarding a Defendant Charged with Gambling via Electronic Media (A Study of Judgment Number 363/Pid.Sus/2025/PN Pdg)

Martha Pratama, 24151084, Bachelor of Laws Study Program, Faculty of Law, Social Sciences, and Humanities, Dharma Andalas University

ABSTRACT

Article 27 Paragraph (2) of Law Number 1 of 2024 concerning the Second Amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions regulates the criminal offense of online gambling. In the case of Judgment Number 363/Pid.Sus/2025/PN Pdg, legal facts revealed that the defendant engaged in gambling using a mobile phone. In this judgment, the judge held that the defendant violated Article 303 bis Paragraph (1) point 1 of the Criminal Code (KUHP). The research questions are: 1). How is the law applied based on the principle of lex specialis derogat legi generali regarding a defendant charged with gambling via electronic media? 2). What are the judge's considerations regarding the application of the law based on the principle of lex specialis derogat legi generali concerning a defendant charged with gambling via electronic media? The research method employed is normative-juridical. Data for the research were obtained through a literature review. The research findings indicate that: 1) Regarding the application of law based on the principle of lex specialis derogat legi generalis to a defendant charged with a gambling offense via electronic media, the defendant was proven to have violated Article 303 bis Paragraph (1) point 1 of the Criminal Code (KUHP) as charged by the Public Prosecutor by taking the opportunity to participate in unauthorized gambling; consequently, the judge sentenced the defendant to seven months of imprisonment. Trial facts revealed that the offense was committed via electronic media using online gambling sites, mobile phones, and the QRIS payment method. Therefore, the legal application in the verdict leaned more towards the general provisions of the Criminal Code and did not fully implement the lex specialis derogat legi generalis principle. 2) The judge's considerations regarding the application of law based on the lex specialis derogat legi generalis principle in this case comprised both juridical and non-juridical factors. Juridical considerations included the Public Prosecutor's indictment, witness testimonies, the defendant's statement, evidence, and the fulfillment of the offense's elements based on valid evidence, leading the judge to be convinced that the defendant had legally and convincingly committed the crime of gambling. Meanwhile, non-juridical considerations were based on aggravating circumstances specifically, that the defendant's actions ran counter to government programs aimed at eradicating social ills and mitigating circumstances, such as the defendant having no prior criminal record, admitting to and expressing remorse for the actions, and maintaining an honest and polite demeanor throughout the trial.

Keywords: Lex Specialis, Criminal Offense, Gambling, Electronic Media