

A Detailed Look at Indonesia's Electronic Summons



The global legal landscape is continually evolving, and we have seen how technological advancements have revolutionised the way the legal system operates. In this context, the introduction of the electronic court (“e-Court”) proceedings has garnered significant attention and has been dubbed a breakthrough in the Indonesian legal system. This client update explores the implementation of electronic summons (often called e-summons), highlighting its impact on the conventional summons system, the emergence of e-Court, the intricacies of e-summons, and concludes with recommendations.

Conventional Summons

Summons are a cornerstone in court proceedings, ensuring all relevant parties are duly informed and engaged. The task of executing summons lies with the bailiffs or their substitute. There are several types of summon in the Indonesian legal landscape:

1. Initial hearing summons, which purpose is to call all parties to attend the first hearing.
2. Subsequent hearing summons, which mandates the presence of previously absent parties in successive proceedings.
3. Session continuation notices, which notify the present parties to participate in the next session.

Regardless of the type, the summons must be meticulously and officially communicated to all relevant parties, adhering to the precise requirements stipulated by the law. Improper summons filing disrupts court proceedings and can detrimentally influence case outcomes. Moreover, common problems in conventional summons include:

1. In situations where summons must be signed by a village chief/head of the village or be endorsed by an official seal, it is often difficult to find these individuals;
2. Possibility of misdirected summons if summons must be sent to non-public officials like village officials, head of village neighbourhood association (*rukun warga* or RW), or head of neighbourhood association (*rukun tetangga* or RT); and
3. Refusal of service by village chief or head of village.

Consequently, there is a pressing need for an overhaul of the conventional hearing summons system to address these recurring issues and aligns the system with current trends.

Introduction of e-Court

In 2019, the Indonesian Supreme Court introduced e-Court under Supreme Court Regulation No. 1 of 2019 on Electronic Case Administration and Proceedings in Court, as revised by Supreme Court Regulation No. 7 of 2022 on Amendments to Supreme Court Regulation No. 1 of 2019 on Electronic Case Administration and Proceedings in Court (“**Regulation**”).

Under the guidelines in the Regulation, the court's information system now covers a range of electronic services offered by the Supreme Court. These services are designed to ensure accessibility and convenience for all parties. They include digital case management, assistance for legal cases, virtual court hearings, and the focal point of our discussion, e-summons.

These electronic case management services are available to both registered and non-registered users. With respect to registration, the Supreme Court can review registration information, make necessary changes, suspend user access, or cancel registration. The Supreme Court also has the right to decline registration if the information that has been given cannot be verified.

Non-registered users must meet certain criteria to use the system, such as submitting identification documents and authorisation letters, particularly if someone is representing a government institution. Similarly, individuals involved in court proceedings and acting as individual representatives under the court's appointment must provide personal identification documents. This underscores the system's careful approach to ensuring legitimate participation.

E-Summons

With the introduction of electronic case management within the court framework, the summoning process can now be done electronically. An electronically conducted summons is valid as long as it is directed to the parties' registered email address and adheres to the stipulated legal timeframe.

1. *Summoning within the court's jurisdiction*

Bailiffs or their substitutes are empowered to issue e-summons to parties engaged in electronic cases within the court's jurisdiction. Parties eligible for electronic case participation are 'registered users' and 'other users'. Registered users are attorneys and receivers who have met the prerequisites to utilise the court's information system, adhering to the rights and responsibilities under the Regulation. Other users are legal entities other than attorneys who satisfy the criteria to use the court's information system and who are governed by the rights and obligations outlined under the Regulation.

E-summons will be dispatched to the plaintiff and defendants who have electronically registered their cases, as well as to the defendants or other relevant parties who have provided consent to be electronically summoned. E-summons will be transmitted via the e-Court application directly to the email addresses of the summoned parties. If a defendant who has given their email fail to appear despite having been sent the e-summon, then subsequent summons will be sent via registered mail.

2. *Summoning outside the court's jurisdiction*

E-summons can also extend to parties residing beyond the territorial jurisdiction of the court handling the case. These summons are routed through the respective registered email addresses of these parties.

Simultaneously, a duplicate of the summons will be sent to the court and dispatched to the known residence of these involved parties.

Conclusion and Recommendations

The integration of e-summons marks a pivotal modernisation of legal proceedings in Indonesia. Besides aligning the practice with technological advancements, it fosters efficiency and accessibility in the judicial ecosystem.

In this regard, parties intending to use e-summons should keep in mind the following recommendations:

1. **Digital proficiency**

Legal professionals should learn about, and familiarise themselves with, the e-summons processes.

2. **Robust security**

Parties intending to use e-summons should engage IT experts to fortify their data protection measures and ensure the confidentiality of sensitive legal information.

3. **Active registration**

Parties should actively participate in the registration process as registered user, including complying with all requirements and regularly checking their email.

4. **Clear consent**

Secure explicit consent for e-summons delivery from parties in a legal proceeding must be obtained.

5. **Adherence to timeframes**

All parties should respect the stipulated timeframes for summons' issuance and responses.

6. **Constructive feedback**

Parties should engage in collaborative feedback mechanisms to enhance the functionality of the e-summons system.

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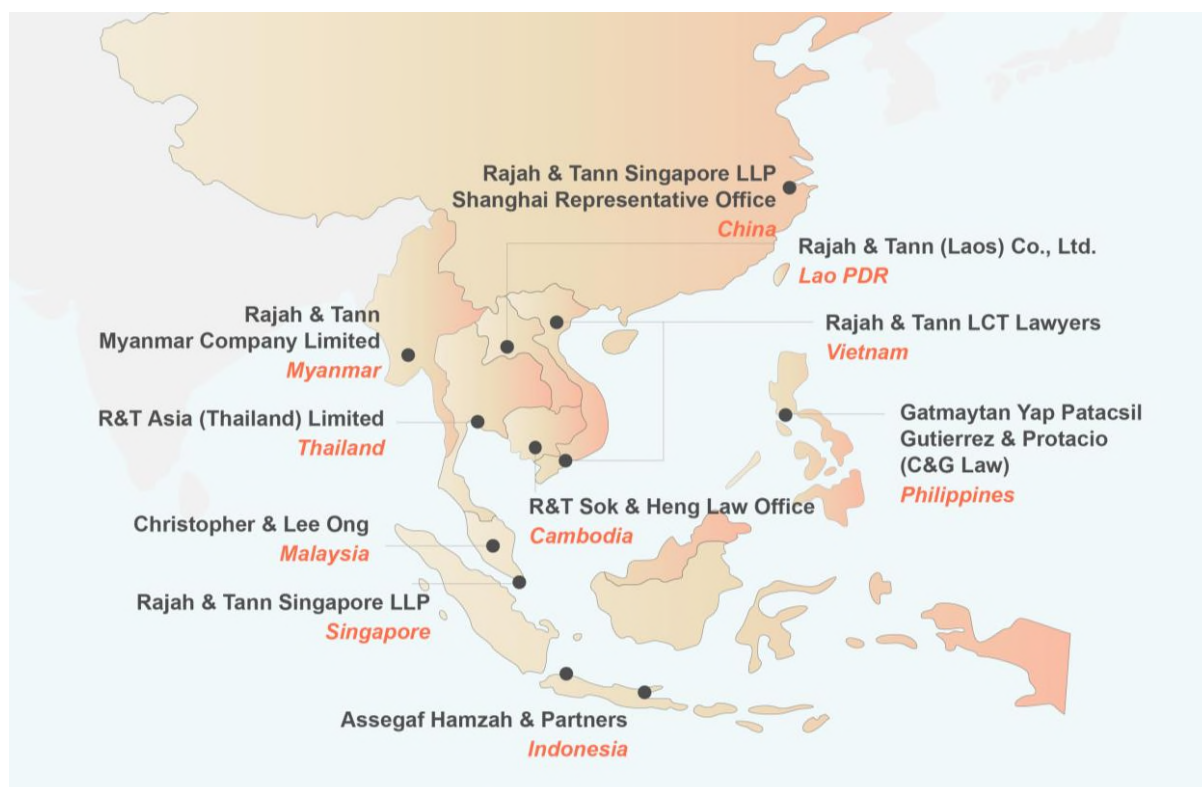
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