

Legal Certainty Regarding Electronification of Land Certificates (E-Certificate) As Proof of Ownership of Land Rights in Indonesia

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16 Legal Certainty Regarding Electronification of Land Certificates (E-Certificate) As Proof of Ownership of Land Rights in Indonesia

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Abstract

Apart from being a natural resource, land is also an asset or investment material. This *urgent* land need really requires authentic evidence, namely land certificates, as strong evidence to prevent disputes. As time goes by, manual land certificates will be changed to electronic land certificates. The formulation of the problem in this paper is the legal certainty of electronic land certificates as proof of ownership of land rights in Indonesia. The type of research used is juridical-normative, using a statutory approach (*statute approach*). The results of this research are that an electronic land certificate will be issued if the applicant requests to replace the manual land certificate with an electronic land certificate, and its implementation must continue to be socialized so that more parties know about it and the security of the data in the certificate can be maintained.

Keywords: Legal Certainty, Electronic Certificate, Land Rights

INTRODUCTION

1. Background

Soil is something that is fundamental for human survival, because through soil, all aspects of life arise and develop there. This is also the reason why humans have such a high desire to own or control a piece of land. Land has a position as an entity and the identity of a person, making land whose needs are increasing day by day along with the increase in population, 'an object whose regulation is quite complicated in the administration of the land system in Indonesia, both acquisition, management and dispute resolution.'²

Land is something that is very important for human needs, so to guarantee its ownership, authentic evidence is needed regarding the plot of land that is owned, such as a land certificate as a strong legal basis to prevent disputes, such as land acquisition, eviction, double certificates, or it could also be things like mismatching sizes, overlapping, even becoming the object of a case in court. However, the facts show that land registration activities throughout Indonesia have not been completely or completely registered, so that both physical and juridical data on each land is not yet fully available, so this is something that needs to be taken seriously. The acquisition of these rights needs to be registered first with the National Land Agency (BPN) to obtain a certificate which guarantees legal certainty regarding ownership of land rights.

As explained in Law Number 5 of 1960 concerning Basic Agrarian Principles (UUPA) it firmly states that the implementation of land registration to obtain evidence, namely in the form of a

¹Reko Dwi, Salfutra, *Indonesian Agrarian Law*, Thafa Media, Yogyakarta, 2019, p. 143

²Nafan, *Legal Certainty Regarding the Application of Electronic Certificates as Proof of Control of Land Rights in Indonesia*, Vol. 6 Number 1, 2022, p. 3343

³ certificate of land rights as a guarantee of legal certainty which is further regulated in Government Regulation Number 10 of 1961 concerning Land Registration, as amended by Government Regulation Number 24 of 1987 concerning Land Registration.¹⁹

To be able to obtain a land certificate, it is mandatory that the land is then registered with the Land Office. The land registration process is carried out with the aim of obtaining proof of rights in the form of a certificate of land rights in the form of a sheet of green paper which contains physical data and juridical data. Of course, the certificate data is also stored at the Land Office in the form of a Land Book. Along with the transformation of land ownership from conventional to digital, electronic services are increasingly being improved day by day. This electronic service is implemented to provide services to the public quickly and precisely. The use of electronic services is what then led the government through the Ministry of ATR/BPN to issue Regulation of the Minister of ATR/Head of BPN Number 1 of 2021 concerning Electronic Certificates. This issuance is carried out through the first land registration for land that has not been registered (land that has been certified) or replacing previously registered land certificates in manual form into electronic form. Then, in Article 16 paragraph (1) of this Ministerial Regulation, it is explained that: "Replacing a certificate with an e-certificate includes replacing the land book, measuring certificate and/or apartment unit plan drawing with an electronic document."²⁶

From a legal perspective, the public has the right to keep the original certificate that has been issued, so this right cannot be abolished. The emergence of this electronic document should serve as backup data if at any time the certificate in physical form is damaged or lost, so that this digitalization progress is not meant to replace or eliminate people's rights to the original certificate. Land registration with this concept does not adhere to a positive publication system, but rather a negative publication system, so that land registration gives rise to legal consequences, namely the existence of a land certificate which itself also contains a negative publication system, where there is protection for the actual rights holder and there is an investigation history of the land before the certificate was issued. However, this system does not always run smoothly, because there are problems that arise, such as the rise in cases of falsification of land certificates, cases of ownership of multiple land certificates or overlapping land certificates, as well as the rise of the land mafia resulting in various land disputes which result in people feeling loss, and this also creates a lack of public trust in the government's plan to switch to electronic certificates. Thus, making a certificate of land rights no longer provides a guarantee of legal certainty for the community.³

Viewed from the user's perspective, digitalization will only be accessible to urban communities, the middle class, and large business entities, where access to technology and infrastructure has certainly been developed and is much more adequate. On the other hand, for residents who live in rural areas or those who live in rural areas who are not yet familiar with the internet, it is clear that they will experience difficulties in registering online, even though electronic land certificates can be issued, it is not certain that they will be able to access the data regularly.

The efforts carried out by the Ministry of ATR/BPN are a new breakthrough that needs to be appreciated, while still considering matters that are still urgent in society, such as integrating and protecting Indonesian land data from certain leaks, and without sacrificing certainty and guarantees of protection law on land data in Indonesia. This requires socialization from the government and BPN regarding the objectives and legal certainty regarding the issuance of electronic land certificates.

³¹ 2. Formulation of the problem

The problem formulation in this research is: "What is the legal position of electronic land certificates as proof of ownership of land rights in Indonesia?"

³Nur Hidayani Alimuddin, *Implementation of Electronic Certificates as a Guarantee of Legal Certainty of Ownership of Land Rights in Indonesia*, Vol. 27 Number 3, 2021, p. 336

RESEARCH METHODS

The type of research used is juridical-normative, using a conceptual approach, where data collection techniques are carried out using library research.

RESULTS AND DISCUSSION

According to the Minister of ATR/BPN Regulation Number 1 of 2021 concerning Electronic Certificates or hereinafter referred to as e-certificates, they are certificates issued through an electronic system in the form of electronic documents. Thus, this electronic certificate is useful for realizing digitalization and efficiency in services to the public with the hope of reducing disputes related to land.

According to Supriadi, land registration is a very important issue in the UUPA, because land registration is the beginning of the process of producing proof of ownership of land rights, because the registration issue is so important, that the UUPA orders the Government to carry out land registration throughout Indonesia.⁴ In Article 2 of the ATR/BPN Ministerial Regulation Number 1 of 2021 concerning Electronic Certificates, land registration can be carried out electronically and in the implementation of electronic land registration it is implemented in stages determined by the Minister by taking into account the readiness of the electronic system used.

Through this, the Ministry of ATR/BPN continues to strive to provide easy services to the community, one of which is through electronic services, one of which is an online site which is the government's contribution to helping the community access land services safely during the pandemic. Through this online site, the process will begin with registering a user account. Users can be accessed in two types, namely individual service users and non-individual service users. Those who fall into the non-individual user category, such as: PPAT or other public officials; Licensed Surveyor Services Office; Public Appraisal Services Office; Legal entity; Government agencies; and other parties in accordance with statutory provisions.

The process to obtain an electronic land certificate will begin with checking and processing the applicant's files in accordance with the provisions of Government Regulation Number 24 of 1997, namely:

a) Measurement and Mapping:

Measurement is an activity carried out by the land registration implementing committee, which in this case is the party given authority by the government in accordance with the instructions of the law, namely the Regency/City Land Offices throughout Indonesia by going directly to the field, checking and taking measurements on the total area of land, so that a valid number will be obtained. Meanwhile, mapping is a checking process after obtaining valid numbers in the measurement process, then mapping of the location of the land is carried out, either using a map of the area or via satellite imagery.

b) Creation of Registration Base Map:

The Registration Base Map informs the shape, boundaries, location, plot number of each land plot and is used for plot bookkeeping purposes. This map will eventually contain basic technical points and geographical elements, such as rivers, building roads and physical boundaries of land parcels. Making a registration base map according to PP Number 24 of 1997 in Article 15 states that: " Systematic land registration activities as intended in Article 13 paragraph (1) begin with making a registration base map; In areas that have not been designated as systematic land registration areas by BPN, efforts will be made to provide basic registration maps for sporadic land registration purposes. "

c) Determination of Boundaries of Land Plots;

⁴Supriadi, *Agrarian Law*, Sinar Graphics, Jakarta, 2012, p. 152

This determination is an appointment of land parcel boundaries made between right holders or their proxies from adjacent parcels. According to Article 17 of PP Number 24 of 1997, it states that: " (1) To obtain the physical data required for land registration, the plots of land to be mapped are measured, after determining their location, boundaries and according to the need, boundary signs are placed. in every corner of the plot of land concerned; (2) In determining the boundaries of land parcels in systematic land registration and sporadic land registration, efforts are made to determine boundaries based on the agreement of the interested parties; (3) The placement of boundary signs including their maintenance must be carried out by the holder of the land rights in question; and (4) The shape, size and technique for placing boundary marks are determined by the Minister."

d) Preparation of Land Register;

It is an activity to create a document in the form of a list containing the identity of land parcels with a numbering system, which is regulated in Article 21 PP Number 24 of 1997, which contains several points, namely: " (1) Fields or parcels that have been mapped or affixed the registration number on the registration map is recorded in the land register; (2) The form, contents, method of filling in, storing and maintaining the land register are regulated by the Minister. "

e) Preparation of Measurement Letters;

Is an activity relating to documents containing physical data on a plot of land in the form of a map and a description of the data taken from the registration map. The stages in making a measuring letter have been determined and regulated in Article 22, including: " (1) For plots of land as intended in Article 9 paragraph (1) letters a, b, and c have been arranged and mapped on the registration map, measurement letters have been made for the purposes of registering rights; (2) For sporadic land registration areas where a measuring certificate registration map is not yet available, it is made from the measurement results as intended in Article 20; (3) The form, contents, method of filling in, storing and maintaining the measuring letter are determined by the Minister. "

f) Proof of Rights and Bookkeeping;

It is a stage or process in issuing evidence relating to a plot of land that has been controlled which is used for purposes during land registration, so for the purposes of registering new rights it can be proven based on the provisions of Article 23 PP Number 24 of 1997, namely: " a. new land rights are proven by: 1) determination of the grant of rights from the official authorized to grant the relevant rights according to the applicable provisions if the grant of rights originates from State land or land with management rights; 2) the original PPAT deed containing the grant of said rights by the owner of the property rights to the recipient of the rights in question if it concerns building use rights and use rights over land of ownership rights; b. management rights are proven by the determination of the granting of management rights by the authorized official; c. waqf land is proven by a deed of waqf pledge; c. waqf land is proven by a deed of waqf pledge; d. ownership rights to the apartment unit are proven by a deed of separation; e. The granting of mortgage rights is proven by a deed of grant of mortgage rights. "

g) Issuance of Certificates;

Certificates of land rights or proof of land ownership need to be issued through specified stages. This land certificate has a function, namely as a means of proof, if in the future there are problems, both in dispute and outside of dispute related to the process of issuing land certificates. In each of these disputes, the Petitioner needs and shows proof of control of rights, and this proof is known as a certificate based on the provisions of Article 32 PP Number 24 of 1997, which states that:

" A certificate is a certificate of proof of rights which acts as a strong means of proof regarding the physical and juridical data contained therein, as long as the physical and juridical data is in accordance with the data in the measurement letter and land rights book in question."

If a certificate of land has been legally issued in the name of a person or legal entity that has acquired the land and actually controls the land in good faith, then other parties who feel entitled to the land can no longer claim the same rights if within 5 years of The issuance of the certificate does not submit written objections to the certificate holder and the Head of the Land Office concerned or does not file a lawsuit in court regarding the ownership of the land or the issuance of the certificate. Furthermore, for land units that have been registered or have a certificate, which in this case is a manual certificate that has been registered initially in accordance with Government Regulation Number 24 of 1997, and when you want to register the certificate again as an e-certificate, you must first do so, data collection and validation, so that all forms of physical data will be replaced in electronic form, as explained in Article 14 of the ATR/Ka Ministerial Regulation. BPN Number 1 of 2021, which states:

(1) By changing the type of ordinary certificate to electronic form for land that has previously been registered as stated in Article 6 letter b, it is given for land that has previously been registered and a certificate is issued regarding ownership of land, rights to manage it, ownership of apartment units, and waqf land; (2) changing the type of land certificate to electronic form, as stated in paragraph (1), is carried out by submitting a request to register the land."

Meanwhile, Article 15 further states that:

"(1) Changes in the form of the Certificate to electronic form, as stated in Article 14, are carried out if the material data and legal data contained in the land document are the same as those stated in the electronic document system; (2) If the material data and legal data in terms of physical data and juridical data, as stated in paragraph (1), are not the same, confirmation will be carried out by the Head of the Land Office; (3) The confirmation consists of: a) proof of ownership of rights; b) material evidence; and c) legal evidence."

If the electronic land registration process has been carried out, then all forms of turnover which were initially in manual form, become electronic documents as explained in Article 15 which states:

"(1) Changes in the form of certificates to electronic form also consist of changes to the land book, measurement results documents, floor plans for apartment units in the form of electronically systemized documents; (2) changing the form of the certificate to electronic form, as stated in paragraph (1), is recorded in the land book, measurement results document, floor plan of the apartment unit; (3) taking old certificates by the Head of the Land Office to group them with land books, and storing them as bookkeeping at the Land Office; (4) all bookkeeping as stated in paragraph (3) is carried out by scanning and stored in a data base."

With this pretext, then in Article 16 paragraph (3) it is explained that: "The Head of the Land Office withdraws the Certificate to be combined with the land book and stored as a document at the Land Office." However, this means that people who want to register their land will be given an electronic certificate which can be exchanged for an analog certificate which will then be put together and stored at Regency/City Land Offices throughout Indonesia.

Including registration maps, land registers, measuring letters, land books, name lists and other documents must remain at the relevant Land Office or in other places as determined by the Minister.

If at any time a dispute occurs, then with written permission issued by the Minister or official who has received the appointment, extracts, copies or recordings of documents can be given to other agencies that require them related to the implementation of their duties.

Then, referring to the order of the court which is adjudicating a case, the original documents are brought by the Head of the Land Office concerned or an appointed official to the Court Session to be shown to the Panel of Judges and the parties concerned. Then, land registration data is stored and presented in stages using electronic equipment and microfilm. This microfilm recording has the power of proof after being signed and affixed with an official stamp by the Head of the Land Office concerned.

So, in simple terms, the requirements and procedures for registering an electronic land certificate are:

1. Collecting and processing physical data in the form of electronic documents, in the form of: *measuring drawings; land plot maps or space maps; measurement letter, apartment unit plan drawing, or room measurement letter; other documents resulting from the collection and processing of physical data;*
2. For land whose boundaries regarding systematic or sporadic registration have been determined, a land plot identification number is given;
3. Proving the right to land ownership through written evidence, in the form of:
 - Electronic documents issued through electronic systems; and/or
 - Documents that undergo media transfer become electronic documents.
4. He collected and carried out research on juridical data on several electronic documents, namely:
 - minutes of research on juridical data and boundary determination, minutes of land inspection committee A, minutes of land inspection committee B, minutes of research team land inspection, minutes of land inspection (*constating rapport*);
 - Announcement of a list of juridical data and physical data on land plots;
 - Minutes of legalization of physical data and juridical data;
 - Decision to determine rights;
 - Other documents are the results of juridical data collection and research.
5. Land whose rights have been determined or have waqf land status will be registered via an electronic system and *an e-certificate will be issued;*
6. The right holder or nazhir will receive *an e-certificate* and access to it.

And the replacement to an electronic certificate can only be done on plots of land that have been registered and issued a Certificate of Land Rights, management rights, ownership rights to apartment units or waqf land, namely:

1. Replacement services are carried out through requests for land registration data maintenance services;
2. The replacement process can be carried out if the physical and legal data in the land book, as well as the certificate, match those in the electronic system;
3. If there is a discrepancy, the Head of the Land Office will validate it using rights holder, physical and juridical data;
4. Changing to an electronic land certificate or e-certificate includes changing the land book, measurement letter, and/or apartment unit plan drawing into an electronic document;
5. Next, the replacement of the e-certificate is recorded in the land book, measurement letter, and/or apartment unit plan drawing;
6. The Head of the Land Office will withdraw the certificate to be combined with the Land Book and stored as a certificate at the Land Office;
7. All manuscripts will undergo media transfer (*scan*) and be stored in the database.

Seeing how the phenomenon of digitalization or electronification is developing regarding land certificates, people who want to register their land can use electronic media, by entering identity data along with the required documents and then getting a queue number to come to the land office.

In the land sector, with the implementation of electronic-based land services to realize modernization, a policy was issued through the issuance of Electronic Certificates in accordance with the Minister of ATR/Ka Regulation. BPN Number 1 of 2021. However, this has prompted the legislature, in this case Commission II of the DPR RI and the Ministry to postpone the implementation of the Electronic Land Certificate, and request that a more in-depth evaluation be carried out first. The community also feels the same condition if there is a data leak (*hacking*) of their land certificates.

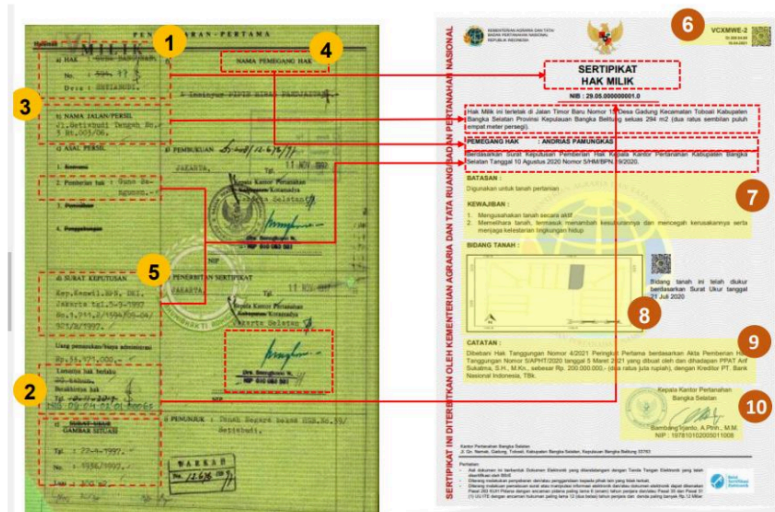
Electronic land registration held in Indonesia is carried out so that *output can be issued* in the form of electronic land certificates. So, the reasons behind the implementation of this electronic certificate include:

- a. Land registration efficiency. Carrying out land registration electronically will increase the efficiency of both the *input* and *output processes*, as well as reduce physical contact between users and service providers;
- b. Legal certainty and legal protection. This process can take place by recording all aspects of land registration electronically, so as to minimize forgery, duplication and anything that can be used to avoid breaking the law;
- c. Reducing the number of disputes, conflicts and court cases regarding land. This is a form of efficiency, one of which is producing information transparency which will have an impact on minimizing disputes, conflicts and cases that arise from misinformation. Providing electronic land services can increase public access to information on land management;
- d. Increase the value of *registering property*; In order to improve *Indonesia's ease of doing business* ranking. *Paperless* land management will increase the value of land management in the EoDB.

So, with the implementation of this Electronic Certificate, it will be a positive thing for the Indonesian people. So, the Land Office in Indonesia must be able to prepare an infrastructure to provide maximum service to the community. If people experience difficulties in carrying out electronic land registration, they will be assisted by the land office where the land plot is registered.

Even though the implementation is being carried out slowly, by creating awareness and trust in the community as land owners to digitize archives, the benefits will continue to be increased. Because, with the existence of electronic land certificates, it will be possible to minimize the land mafia, support a *paperless office culture* in the digital era, ease maintenance and management, and individuals who have rights to their land can access land certificates anytime and anywhere, thereby avoiding risks. loss, burning, rain, and theft of physical documents from the land owner.

Then, the Ministry of ATR/BPN wants to make this electronic certificate system as applicable as with private bank ATM ownership, where only the person knows about it, and can log in to access their electronic certificate electronically. So, in the future the implementation of electronic certificates is a necessity, but everything depends on the readiness of human resources and infrastructure at each Land Office, as well as ongoing outreach activities to BPN.



In the Electronic Land Certificate there are several things, namely:

- The ATR/BPN Ministry logo is aligned on the left, parallel to the Garuda Bird Symbol;
- The type of right will depend on the land rights to be granted;
- The Field Identification Number (NIB) is a *Single ID* which is the reference for all land registration activities;
- A unique code/ *hashcode* is a unique code for a published electronic document, which is connected to the edition of the electronic document;
- RRR (*Rights, Restrictions and Responsibilities*) is included in the certificate;
- Image of Land Plot complete with measurement letter information and QRCode for Electronic Measurement Letter;
- Attention containing knowledge regarding the provisions of electronic documents to holders of certificates in the form of electronic documents;
- *QR Code* is an *e-certificate ID encrypted data* that is used to directly access *e-certificate information* through the system provided by the Ministry;
- The smooth wavy line pattern is *the background* of the electronic certificate, which shows a continuous service pattern (continuity). The Ministry logo *watermark* is placed in the center plus a red writing pattern on the left side of the document;
- Electronic signatures were introduced in a *modern classic style*, namely the form of signature specimens equipped with the Land Office seal;
- BSR symbol as electronic signature provider. BsrE (Electronic Certification Center).

It can also be seen that the differences between Electronic Certificates and Manual Certificates are as follows:

1. Security Code;

E-certificate: uses *hashcode*, which is a unique electronic document code created by the system;

Manual Certificate: uses a blank code, namely a unique serial number consisting of a combination of letters and numbers.

2. QR Code;

E-certificate: uses a *QR code*, which contains a link that makes it easier for people to access the electronic document directly;

Manual Certificate: does not use a *QR code*.

3. Identity number;

E-certificate: uses one number, namely the Field Identification Number (NIB);

Manual Certificate: uses many numbers including the rights number, ruku unit number, parcel identification number, and parcel map number.

4. Obligations and Prohibitions;

E-certificate: states aspects of *rights, restrictions on responsibility*, where the provisions on obligations and prohibitions are included;

Manual Certificate: the recording is done in the instructions column, thus making this recording not uniform depending on each Land Office.

5. Signature;

E-certificate: uses an electronic signature that cannot be forged;

Manual Certificate: uses a manual signature, so it is considered prone to being forged.

6. Document Form:

E-certificate: the information provided is concise and concise, and can be accessed via the Touch My Land application;

Manual Certificate: paper-based, in the form of a blank filled in on several pages.

It can be seen that manual land certificates and digital land certificates have differences, even though they are designed simply, electronic land certificates are claimed to simplify and speed up the signing and service process. The differences are clearly visible from the use of *hashcodes*, *QR Codes*, and only using one identity number, the existence of obligations and prohibitions to protect electronic documents and digital signatures which guarantee authentication and integration, as well as anti-repudiation of land certificates until electronic certificates are no longer in paper form, but digital. in order to avoid risks that occur, such as floods, fires and other disasters.

With the presence of electronic certificates, pros and cons have begun to arise in society. And on the one hand, the community accepts the activities or steps taken as a form of modernization of land services in realizing security, legal certainty and legal protection for land rights owners. Through the existence of this electronic certificate, it can also minimize activities carried out by the land mafia and land disputes, and can guarantee the availability of archives, if manual land certificates are damaged or lost. However, on the one hand, many people think that this step is considered hasty and has not been equipped with thorough preparation, so that it can create unsafe conditions regarding land registration data, as well as resulting in uncertainty regarding land rights.

One of the reasons is also related to the public's fear regarding information stating that physical or manual certificates from registered land owners will be forcibly withdrawn by the BPN. This matter can be understood as the implementation of replacing manual certificates with electronic certificates, if you look at Article 14 of the ATR/BPN Ministerial Regulation Number 1 of 2021 concerning Electronic Certificates, that:

“ (1) Replacement of the certificate to an e-certificate is carried out for plots of land that have already been registered and issued a Certificate of Land Rights, management rights, ownership rights to apartment units or waqf land; (2) The replacement of the certificate into an e-certificate as intended in paragraph (1) is carried out through a request for land registration data maintenance services.” Furthermore, in Article 16 paragraph (3) it is stated that: “ The Head of the Land Office shall withdraw the Certificate to be combined with the land book and stored as a certificate at the Land Office. ”This then becomes a problem for some people, because it is thought that they will withdraw the certificate

from the public, when in fact, this manual certificate can be withdrawn by BPN when the certificate owner has changed the manual certificate to an electronic certificate. This was done because there was no direction to BPN to withdraw the manual certificate immediately after the Ministerial Regulation was issued. Or in other words, the Land Office cannot act actively on its own to change to an electronic certificate, so the manual certificate will remain valid until there is an application for conversion to electronic form or land registration data maintenance. Then, when the existing certificate is changed to electronic form, a stamp is immediately given indicating that the manual certificate has been transferred to electronic document form.

So, there is no longer any proof of land rights other than a land certificate. So, the guarantee of legal certainty is actually the same, whether in manual or electronic form, because both are equally useful as proof of ownership of land rights, only the document form is different. Thus, the Manual Certificate will remain in the hands of the owner as long as there is no application for replacement into an electronic certificate or data maintenance land registration. Regarding legal certainty regarding the use of electronic certificates, there are 4 understandings, namely:

1. That law is positive, or in the form of statutory regulations (*gesetzliches recht*). It can be seen that the Regulation of the Minister of ATR/Ka. BPN Number 1 of 2021 concerning Electronic Certificates is definitely positive law since it was stipulated on January 12 2021. The position of this Ministerial Regulation was formed based on orders or provisions of higher legislation, or was formed on the basis of authority in certain areas of government affairs which rests with the Minister, qualified as statutory regulations;
2. The meaning of law is based on facts (*tatsachen*). The facts referred to in the application of electronic certificates are the causes of the urgency for the formation of these laws and regulations which can be seen in the considering section of Ministerial Regulation Number 1 of 2021 concerning Electronic Certificates, it is stated that: " *to realize the modernization of defense services in order to increase indicators of ease of doing business and public services to the community, it is necessary to optimize the use of information and communication technology by implementing electronic-based land services, and the results of land registration activities are published in the form of electronic documents. So in fact, the land sector expects the development of services by utilizing information and communication technology, because this is one indicator of a country's modernity* : 1
3. This fact must be stated clearly and easily, and easy to implement. The application of electronic certificates requires that the facts stated in the law must be formulated in a clear and easy to implement manner so as not to cause doubt and make sense, so that in implementation they do not conflict or cause problems. As in the ATR/BPN Ministerial Regulation Number 1 of 2021 concerning Electronic Certificates, they are formed systematically using regulatory preparation techniques.
4. Positive law cannot be changed frequently. This meaning is not actually intended to limit the existence of a new legal product, but as long as the implementation of this regulation still applies effectively in society and is in line with current developments, the regulation does not have the urgency to make changes. As in the ATR/BPN Ministerial Regulation Number 1 of 2021 concerning Electronic Certificates, which is still in the planning stage to be directly implemented for the general public, so this regulation will definitely not be changed in a long time.

This ensures that legal certainty is actually the same, whether in manual or electronic form, because both are equally useful as proof of ownership of land rights. However, legal certainty in the activity of changing to an electronic certificate, as well as withdrawing a manual certificate, can only be implemented if it is related to the maintenance of land registration data, which means that the Land Office cannot take the initiative to play an active role in implementing it and withdrawing it, but there must be a request for data maintenance requested. by the applicant at the ATR/BPN Land Office,

after the changes are made they are then given a special mark that the conversion has been carried out.

Thus, this Electronic Certificate is a form of progress in time and technology and to reduce the number of disputes in the land sector regionally to provide legal certainty for land rights holders in order to realize orderly administration in the land sector nationally. Then it is hoped that it will be effective in managing national land which can minimize duplication of certificates, forgery and illegal land transactions by the land mafia and also reduce the risk of loss by fire, rain and theft of physical documents. However, the current controversy is related to Article 16, which in paragraph (3) explains that the manual land certificate will be combined with the land book which will be kept and become a certificate at the land office. This is contradictory, because manual land certificates should be the right of the owner and the function of electronic land certificates is only as a complement to the land database. So with this, the government needs to harmonize legal instruments by conducting a review of the design for implementing electronic land certificates so that they can be implemented properly, optimally and create legal certainty.

The following are the advantages of an Electronic Land Certificate, namely:

1. Become more practical and more accessible;
2. Using digital signatures;
3. Save storage space;
4. Facilitate land matters;
5. Prevent duplication and forgery;
6. Guarantee the validity of information;
7. The form is digital; And
8. More environmentally friendly.

The advantage of electronic land certificates is that there are positive things about the new regulations, which cover many of the problems that have occurred so far. The advantages of this Electronic Land Certificate are very clear from the ease of access, increasing security, avoiding forgery or not being able to be forged, as well as applying an electronic signature using cryptography which places the electronic land certificate to be signed in a unique code.

Apart from the advantages in implementing electronic land certificates, there are actually several things that need to be taken into consideration related to the possible weaknesses of electronic land certificates that will be encountered. There are several other weaknesses of this electronic land certificate, including:

1. Requires a password to access;

This can make the opportunity to change hands more open, if the device password is known to another party. Or if you tend to forget *your password*, it will be difficult to open your electronic land certificate.

2. Insufficient internet access;

Electronic land certificates will be very difficult to access for people in areas where internet access is inadequate and also difficult for those who do not understand technology. Then asking other people to help open access could potentially cause the electronic land certificate to change hands.

3. There is a possibility of hacking by hackers;

The potential for electronic land certificates is thought to be easily lost if an irresponsible party manages to break into and steal the data of the owner of the electronic land certificate.

4. Lack of socialization.

In implementing this electronic land certificate policy, the government does not provide enough outreach or education to the public, so that people have a sense of fear or doubt about following this government policy.

So, in addition to every advantage, there are definitely weaknesses, especially in this electronic land certificate policy. These weaknesses include Indonesia's web or website infrastructure which is still not ready and easy to hack, as well as the government's lack of activity in providing information regarding this electronic land certificate policy, so that the public believes that there is no guarantee of protection in its implementation.

However, the implementation of this policy is still in the transition period from manual land certificates to electronic land certificates, so there are still things that hinder the implementation of this activity. The following are several obstacles to its implementation, including:

1. The implementation of electronic land certificates cannot be carried out immediately without the existence of a valid information base on maps of land plots in the territory of Indonesia, so that without maps of land plots equally for all land plots in Indonesia, whether registered or unregistered, it will be difficult to realize electronic land certificates. Regarding this, the Ministry of ATR/BPN should first ensure the availability and validity of data and maps of land plots in Indonesian territory. So that there is not a single piece of land in Indonesia that is not mapped or validated;
2. The validity of land ownership data in Indonesia does not just depend on the Ministry of ATR/BPN, because there are links with other institutions that will influence the validity of the land database, such as population data and civil registration. The facts so far prove that population data in Indonesia is not yet orderly, and there is still a lot of data that is not updated, so that guaranteeing the validity of land data requires ensuring the validity of population data in the territory of Indonesia. Not only that, the validity of data in the context of Land and Building Tax (PBB) also needs to be scrutinized because the land registration process will be related to state revenues, either in the form of PBB or in the form of Land and Building Rights Acquisition Fees. So, before implementing electronic land certificates, the data between these institutions is absolutely obliged to ensure the validity of their own data, so that it can be integrated without causing problems in the future;
3. There is still a need to improve legal norms relating to electronic land certificates, there is a need to synchronize and harmonize laws and regulations so that new problems do not arise from the registration process to the data processing process, because certificates are proof of ownership that have legal force;
4. The government is still not maximizing efforts to disseminate electronic land certificates to the public, so there is still a lot of uncertain information so that the public is worried about the benefits, legal certainty and legal protection of these electronic land certificates;
5. The use of this technology will only be easy for urban communities and the upper middle class to use, while people living in rural areas still have difficulty accessing technology, and it is not evenly distributed and is considered to still not understand technology. So, education should be provided to the community first, and attention should be paid to the completeness of the facilities and infrastructure;
6. Information Technology (IT) systems controlled or regulated by the Government, such as e-KTP, and the Ministry of ATR/BPN do not appear to be truly safe. Security aspects and land bureaucratic reform are not yet guaranteed, so there is the potential for land ownership data to be lost and vulnerable to misuse.

In practical terms, using an electronic certificate does seem very easy, but what must be taken into account is that not all levels of society who have a land certificate can easily access the ownership if it is replaced via an electronic scheme or scheme. Judging from the usage side, this digitalization will take place smoothly only for urban communities and the upper middle class, where access to technology and infrastructure has been built, but on the other hand, people who are less fortunate or lack understanding in urban areas, in villages and rural areas will definitely be left behind.

5 Then we don't even mention issues from a security perspective. This aspect is not yet fully guaranteed, so it has the potential to lose the data of people who own land, which is an electronic system with a level of security that is still questionable because it was done in a hurry, so it is very vulnerable to misuse and 1 then hijacking. The concern that occurs in the community is the issue of security if a leak occurs. The Ministry of ATR/BPN has prepared anticipation for data leaks by collaborating with the National Cyber and Crypto Agency (BSSN) which is 1 tasked with implementing cyber security to protect public assets whose data is in ATR/BPN. Also, electronic land certificates will apply electronic signatures and use cryptographic encryption technology guaranteed by BSSN, so that in electronic land certificates data integrity will be guaranteed, meaning the data will always be intact without being reduced or changed and confidentiality will be protected by security using technology. BSSN encoding.

1 The security regulations for electronic land certificates in Indonesia are currently contained in the ATR/BPN Ministerial Regulation Number 1 of 2021. The security of digital land certificates stated in this Ministerial Regulation is in the form of a unique code/ hashcode accompanied by a QR Code or code containing the encrypted data used. to access direct information on Electronic Documents through the system provided by the Ministry. 8

This electronic land certificate increases security, because with electronics, we can better avoid counterfeiting, and cannot be denied or falsified. In electronic certificates we also apply electronic signatures, when digital signing is carried out, cryptographic operations attach the digital certificate and the document to be signed in a unique code. The Ministry of ATR/BPN has provided a way to guarantee legal protection so that people can enjoy their rights, especially in the application of electronic land certificates. So that it can provide maximum protection in all activities that use information and communication technology, it can be legally protected against the possibility of technological crimes that will occur.

This certificate is made by the right holder in good faith, issued by the authorized agency, and the land object is actually controlled for more than 5 (five) years. Thus, Ministerial Regulation Number 1 of 2021 concerning Electronic Land Certificates is suitable for implementation. The benefits of electronic land certificates provide a basis for guaranteeing legal protection for ownership of land rights, and to increase legal protection for the community, the government must pay maximum attention to and make changes to weaknesses and obstacles that have the potential to cause problems in society in the future. 1

CONCLUSIONS

The conclusion of this writing is:

1. Through the modernization and digitalization process, a policy was then issued in the form of the ATR/BPN Ministerial Regulation. BPN Number 1 of 2021 concerning Electronic Certificates, the implementation of which is felt to be uneven in Indonesia. This implementation will be carried out in the form of a pilot project which will be implemented in 2 (two) large cities in Indonesia, which are determined by considering the highest level of ease of doing business (EoDB) in Indonesia, namely Surabaya and Jakarta. In its implementation, BPN cannot act actively to withdraw and replace manual land certificates with electronic ones. So, the manual land certificate will remain valid until the right owner submits an application to change it to an electronic land certificate, or if there is a data maintenance land registration. So, the guarantee of legal certainty actually the same, whether in manual or electronic form, because both are equally useful as proof of ownership of land rights, only the document form is different;
2. The Ministry of ATR/BPN has made arrangements to guarantee data security protection on electronic land certificates, namely using the ISO 27001:2013 standard, using hashcode,

using certified electronic signatures, using 2FA security, so that with this the public does not need to worry.

3. The legal certainty and legal evidentiary power of electronic certificates of land rights are also in accordance with Law Number 11 of 2008 concerning Electronic Transaction Information which states that electronic documents can be used as legal evidence.

The suggestions or recommendations from this writing are:

1. Electronic land certificates must continue to be socialized, because in this era of digitalization almost all aspects of life are following developments. So that state administrators and public services can apply the principles of good corporate governance by implementing e-Government. The Ministry of ATR/BPN is reconsidering implementing digital modernization in replacing manual land certificates with electronic land certificates, continuing to issue them in 2 (two) forms, namely manual land certificates which are still held by the community and electronic land certificates which are used as a backup in the event of future problems. ;
2. The steps taken by the Ministry of ATR/BPN are actually quite good, but they should frequently monitor community data in electronic land certificates, so that there is no falsification of data or undesirable things so that they really provide protection to rights owners. on the land, and when the applicant registers the land, the government carefully checks the data to see whether the owner is really the owner or not.

REFERENCE

Book

- Harsono, Boedi. 2015. *Hukum Agraria Indonesia*. Universitas Trisakti. Jakarta
- Santoso, Urip. 2019. *Pendaftaran dan Peralihan Hak Atas Tanah*. Penerbit Kencana. Jakarta
- Setiawan, I Ketut Oka. 2020. *Hukum Agraria*. Pustaka Reka Cipta. Jakarta
- Sihombing, Romi. 2022. *Cacat Administrasi (Pembatalan Sertipikat Tanah oleh BPN Tanpa Putusan Pengadilan)*. Penerbit Kencana. Jakarta
- Sutedi, Adrian. 2017. *Sertipikat Hak Atas Tanah*. Sinar Grafika. Jakarta
- Wardhani, Dwi Kusumo, et. al. 2020. *Hukum Pendaftaran Tanah*. Graha Ilmu. Yogyakarta
- Waskito & Hadi Arnowo. 2019. *Penyelenggaraan Pendaftaran Tanah di Indonesia*. Penerbit Kencana. Jakarta
- Yulianti, Anna. 2022. *Urgensi Digitalisasi Sistem Pendaftaran Tanah*. PT. Alumni. Bandung

Journal

- Alimuddin, N. H. (2021). Implementasi sertifikat elektronik sebagai jaminan kepastian hukum kepemilikan hak atas tanah di Indonesia. *SASI*, 27(3), 335-345.
- Febrianti, S. (2021). Perlindungan Hukum Terhadap Pemegang Sertipikat Hak Atas Tanah Elektronik. *Indonesian Notary*, 3(3).
- Mujiburohman, D. A. (2021). Transformasi dari kertas ke elektronik: Telaah yuridis dan teknis sertipikat tanah elektronik. *BHUMI: Jurnal Agraria dan Pertanahan*, 7(1), 57-67.
- Nafan, M. (2022). Kepastian Hukum terhadap Penerapan Sertipikat Elektronik sebagai Bukti Penguasaan Hak Atas Tanah di Indonesia. *Jurnal Pendidikan Tambusai*, 6(1), 3342-3355.
- Zein Alydrus, S. M. (2020). PERLINDUNGAN HUKUM TERHADAP KONSUMEN PT. PLN (PERSERO) BALIKPAPAN TERKAIT ADANYA PEMADAMAN LISTRIK. *LEX SUPREMA Jurnal Ilmu hukum*, 2(1).

Legislation

- Undang-Undang Dasar Negara Republik Indonesia Tahun 1945
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- Republik Indonesia. Undang-Undang Nomor 11 Tahun 2020 tentang Cipta Kerja. Lembaran Negara Republik Indonesia Tahun 2020 Nomor 245. Tambahan Lembaran Negara Republik Indonesia Nomor 6573

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Republik Indonesia. Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik. Lembaran Negara Republik Indonesia Tahun 2016 Nomor 251. Tambahan Lembaran Negara Republik Indonesia Nomor 5952

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