

Legal Certainty of the Time Frame for the Issuance of Electronic Mortgages

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Abstract

The mortgage right is the only guarantee institution for land rights, regulated in the Basic Agrarian Law (UUPA) of 1960 until the enactment of the Mortgage Law (UUHT) in 1996. Since then, there has been no new regulation at the level of law that specifically governs mortgage rights. In its development, the process of registering collateral, which was initially done manually, has now transformed into an electronic system, known as electronic collateral. Based on the UUHT, the issuance of mortgage rights is regulated on the seventh day after registration, and this also applies to electronic mortgage services. However, with the issuance of Government Regulation Number 18 of 2021, one of its articles stipulates that the issuance of the mortgage right can occur before the seventh day. The difference regarding the issuance time causes a lack of synchronization between the regulations governing the Mortgage Rights. This research uses a doctrinal method, which focuses on the analysis of statutory regulations. This paper will discuss the differences between manual and electronic mortgage registrations, as well as the legal certainty regarding the issuance period of electronic mortgages following the enactment of Government Regulation Number 18 of 2021.

1. Introduction

The current development of the national economy is happening rapidly, as evidenced by the increasing number of financial transactions every day. This condition necessitates the strengthening of financing, one of which is the provision of credit facilities to the public. One of the common financing instruments in banking and financial institutions is the provision of credit secured by collateral in the form of land rights

guarantees, commonly known as Mortgage Rights.

Legally, the regulation of Mortgage Rights is specifically governed by Law Number 4 of 1996 concerning Mortgage Rights on Land and Objects Related to Land (hereinafter referred to as UUHT). However, in its current registration practice, there is a problem of inconsistency between the provisions in the Mortgage Law and Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration, particularly regarding the issuance period of the mortgage rights.

In the UUHT, it is explicitly stated that the date of issuance or birth of the Mortgage Right is the seventh day from the date the document is fully received (Article 13 paragraph (4) UUHT).¹ It should be noted that it does not say "at the latest" the seventh day, but only the seventh day. So even if the documents have been fully received by the Land Office and its officers, the birth date of the Mortgage cannot be earlier than the seventh day.² Whereas in Government Regulation Number 18 of 2021, it provides time flexibility by stating "at most seven days," which can create ambiguity regarding when exactly the creditor's preferential right becomes valid and binding on third parties.

Normatively, the Mortgage Law (UUHT) emphasizes that a Mortgage is a security right over land along with objects that are an integral part of it, which grants a preferential position to certain creditors over specific debts³. According to Prof. Budi Harsono, a mortgage is the control of rights over land, containing the authority for the creditor to do something regarding the land used as collateral. But not to be physically controlled and used, rather to sell it if the debtor defaults and take the proceeds entirely or partially as payment for the debtor's debt to him⁴.

Before the enactment of the UUHT provisions, the guarantee institution regarding land rights was regulated under the provisions concerning mortgages (based on the Civil Code) and Credietverband (based on S. 1908-542 as amended by S.1937-190).⁵ After the birth of the Basic Agrarian Law (hereinafter referred to as UUPA) in 1960, the concept of Mortgage Rights began to be recognized, but the provisions of Mortgage and Credietverband remained in effect until a law on Mortgage Rights was enacted.⁶ After a long process, the Mortgage Law (UUHT) was finally enacted in 1996 and established the

¹ *Undang-Undang Tentang Hak Tanggungan Beserta Benda-Benda Yang Berkaitan Dengan Tanah*, UU Nomor 4 Tahun 1996, LN Tahun 1996 No. 42 TLN No. 3632, selanjutnya disebut UUHT, Article 13 Number 3.

² J Satrio, *Hukum Jaminan, Hak Jaminan Kebendaan, Hak Tanggungan* Buku 2, cet. 2, (PT Citra Aditya Bakti, 2004), p. 145.

³ UUHT, Article 1 number 1.

⁴ H Salim HS, *Perkembangan Hukum Jaminan di Indonesia*, ed. 1, cet. 1, (Jakarta: Raja Grafindo Persada, 2004), p. 97.

⁵ Rachmat Usman, *Pasal-Pasal tentang Hak Tanggungan Atas Tanah*, (Jakarta: Djambatan, 1999), p. 8.

⁶ Undang-Undang tentang Peraturan Dasar Pokok-Pokok Agraria, UU Nomor 5 Tahun 1960, LN Tahun 1960 No.104 TLNNo.2043, Next is UUPA, Article 57.

Mortgage as the only land security institution applicable in Indonesia.

The process of encumbering a mortgage is carried out through two stages of activities, namely:⁷ (1) the granting of the mortgage, with the creation of the Mortgage Grant Deed by the Land Deed Official, preceded by a secured loan agreement, and (2) registration by the Land Office, which marks the moment the encumbered mortgage is born. For the stage of granting the mortgage right, it is carried out as follows:⁸

- a. Preceded by a promise to provide a mortgage as collateral for the repayment of a specific debt, which is inseparable from the loan agreement.
- b. Carried out by creating a mortgage deed (APHT) by a PPAT in accordance with the applicable laws and regulations.
- c. The object of the mortgage right in the form of land rights originating from the conversion of old rights that have met the registration requirements, but have not yet been carried out, the granting of the mortgage right is done simultaneously with the application for the registration of the land rights in question.

Regarding the registration of mortgage rights as stipulated in Article 13 paragraphs (1) and (4) of the Mortgage Law, mortgage rights are born and binding after registration is carried out, because if registration is not conducted, the imposition of mortgage rights will not be known to the public and will not have binding force against third parties.⁹ The definition of registration is the recording of encumbrances, deletions, transfers, divisions, consolidations of rights, seizures, name changes, and others in land registration activities, in the registers at the Land Office. If the land is already registered (certified), direct recording can be done. In the case where the land is not yet registered (not yet certified), the imposition of a Mortgage Right is possible, but it must be preceded by the registration process of the right first (conversion).¹⁰

The event of the birth of the Mortgage Right is a very important event in relation to the emergence of the preferential claim right of creditors, determining the rank/position of creditors against other preferential creditors, and determining the position of creditors in the event of a conservatory attachment (*Conservatoir Beslag*) on the collateral.¹¹ For that reason, the registration of the Mortgage Right at the land office becomes essential in the implementation of the security right, as it determines the start of the validity and binding

⁷ Adrian Sutedi, *Implikasi Hak Tanggungan Terhadap Pemberian Kredit oleh Bank dan Penyelesaian Kredit Bermasalah*, (BP Citra Jaya, 2006), p. 6.

⁸ H Salim HS, *Perkembangan Hukum Jaminan di Indonesia*..... p.146.

⁹ Adrian Sutedi, *Implikasi Hak Tanggungan Terhadap Pemberian Kredit*..., p. 66-67.

¹⁰ *Ibid*, p, 76.

¹¹ *Ibid*, p, 76.

force of that right against third parties.

The registration of Mortgage Rights has undergone changes in line with the development of information technology, marked by the implementation of electronic services through the ATR/BPN Ministerial Regulation No. 9 of 2019 concerning Mortgage Services. However, there are several weaknesses in this regulation, one of which, according to the research by Guntoro et al. (2020), states that the requirement for land rights certificates or apartment ownership certificates must be in the name of the debtor (Article 9 paragraph 5) and the registration of credit syndication has not yet been regulated.¹²

Then refined through ATR/BPN Regulation Number 5 of 2020 concerning Integrated Electronic Mortgage Services, which came into effect on April 8, 2020. Electronic integrated mortgage services are a series of mortgage service processes conducted through an integrated electronic system.¹³ This service aims to enhance the mortgage service that adheres to the principles of transparency, timeliness, speed, ease, and affordability for public services, as well as to adapt to the developments in law, technology, and community needs.¹⁴ This provision is followed by the issuance of Government Regulation Number 18 of 2021, which stipulates that the electronic registration of mortgage rights is completed no later than 7 (seven) calendar days after all documents are declared complete.¹⁵

The editorial differences between the UUHT and PP Number 18 of 2021 regarding the issuance period of the mortgage can cause confusion, especially for PPAT, creditors, and the Land Office, and also reduce the guarantee of legal certainty. Electronic service of mortgage rights can be a positive innovation, but this digital transformation must still adhere to the principles of positive law. Considering the importance of registration in determining the validity of a Mortgage Right, this research aims to answer two main questions, namely (1) What are the differences between the registration mechanisms of conventional and electronic Mortgage Rights? and (2) How is the legal certainty of the issuance of electronic mortgage rights after the enactment of Government Regulation Number 18 of 2021? This research is important to strengthen legal certainty and synchronize regulations in the implementation of land rights guarantee institutions in Indonesia.

¹² Muhammad Bayanullah, "Legalitas Akta pemberian Hak Tanggungan Elektronik," *Jurnal Hukum dan Kenotariatan* 6, No. 1 (2022), p. 596.

¹³ *Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia tentang Pelayanan Hak Tanggungan Terintegrasi Secara Elektronik*, Permen ATR/BPN Nomor 5 Tahun 2020, Article 1 Number 7.

¹⁴ *Ibid.*, consider a poin.

¹⁵ *Peraturan Pemerintah Tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun dan Pendaftaran Tanah*, PP Nomor 18 Tahun 2021, LN No.28 Tahun 2021 TLN. No.6630, Article 89.

2. Research Method

This research uses the doctrinal legal research method,¹⁶ which is based on applicable legal regulations and legal doctrines to address the legal issues encountered. With this doctrinal research, the aim is to examine the applicable positive legal norms and to identify the inconsistencies in norms and legal certainty in the implementation of electronic collateral rights.

The research approach is conducted using the statute approach as well as the conceptual approach¹⁷. Namely, by examining regulations related to the issue of electronic mortgage rights such as Law No. 4 of 1996 (UUHT), Law No. 11 of 2020 on Job Creation, Government Regulation No. 18 of 2021 on Management Rights, Land Rights, Apartment Units, and Land Registration, Apartment Units and Land Registration, Minister of ATR/Head of BPN Regulation No. 5 of 2020 on Integrated Electronic Mortgage Services, as well as other related derivative regulations and reviewing the principles of mortgage rights, legal principles of the studied topic.

3. Results and Discussion

A. Mechanism for Registering Mortgage Rights Manually and Electronically

The imposition of a mortgage must adhere to the principles of specificity and publicity in order to bind third parties and provide legal certainty to the interested parties.¹⁸ The principle of specialty requires that the mortgage can only be imposed on land that is specifically determined, meaning the mortgage object must exist and the land must be clearly identified, as concluded in Article 8 and Article 11 paragraph 1 letter e of the Mortgage Law.¹⁹ This principle of specificity is fulfilled in the Deed of Granting Mortgage made in the presence of a PPAT. Regarding the principle of publicity, it requires that the granting of the mortgage right must be registered at the land office and is an absolute condition for the birth of the mortgage right and binding the mortgage right against third parties.²⁰

¹⁶ Peter Mahmud Marzuki, *Penelitian Hukum: Edisi Revisi*, (Jakarta: Kencana Prenada Media Group, 2005), p. 47.

¹⁷ Yati Nurhayati, Irfani dan M. Yasir Said, "Metodologi Normatif dan Empiris dalam Perspektif Ilmu Hukum," *Jurnal Penegakan Hukum Indonesia (JPHI)* 2, No.1 (2021), p. 11

¹⁸ Rachmadi Usman, *Pasal-Pasal tentang Hak Tanggungan Atas Tanah*, (Jakarta: Djambatan, 1991), p. 77.

¹⁹ Remy Sjahdeini, *Hak Tanggungan Asas-Asas, Ketentuan – Ketentuan pokok dan masalah yang dihadapi oleh perbankan (suatu kajian mengenai undang-undang hak tanggungan)*, ed. 2, cet. 1, (Bandung: Penerbit Alumni, 1999). p. 42-43.

²⁰ Ibid, p. 43-44.

Basically, the conventional process for registering a mortgage is as follows:²¹ This process begins with the submission of documents by the PPAT no later than seven working days after the signing of the APHT. The submitted documents include a cover letter from the PPAT, a registration application from the creditor, related identification, the original land rights certificate, the second page of the APHT, and a signed copy of the APHT. If the documents are incomplete, the Land Office is required to notify the deficiencies within seven days.

If all documents are complete, the Head of the Land Office will register the Mortgage by creating and recording it in the Land Book and the Land Rights Certificate that is the object of the mortgage. The registration date is determined seven days from the date the documents are received in full, with the provision that if the seventh day falls on a holiday, the mortgage land book and the above recording will be dated on the next working day. As stated in Article 13, paragraph 4 of the UUHT, the issuance or birth of the mortgage right occurs on the seventh day.

As an innovation, the Ministry of ATR/BPN has implemented an electronic mortgage registration system (hereinafter referred to as HT-el) which is now regulated in the ATR/BPN Ministerial Regulation No. 5 of 2020 concerning Integrated Electronic Mortgage Services. In this system, PPAT and Creditors are actively involved in the process of registering the mortgage rights. The parties must have a registration account used in the HT-el registration process. Account registration for PPAT is done on the PPAT partner application (mitra.atrbpn.go.id), which is then verified by the Land Office according to the PPAT's work area. Individual creditors must be registered as service users on the Sentuh Tanahku application and verified to access the HT-el system for registration. The HT-el registration process for individual creditors is carried out through the Sentuh Tanahku application. Legal entity creditors must be registered on the Financial Services Partner Application (mitra.atrbpn.go.id) and be members of the OJK, in addition to having completed data validation and verification by the ATR/BPN Ministry.²²

Based on the Regulation of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency Number 5 of 2020 concerning Integrated Electronic Mortgage Services:

1. The creditor submits a request for HT-el Service through the HT-el system provided by the Ministry at <https://htel.atrbpn.go.id/>. (Article 9)

²¹ *Peraturan Menteri Negara Agraria/ Kepala Badan Pertanahan Nasional Nomor 3 Tahun 1997 Tentang Ketentuan Pelaksanaan Peraturan Pemerintah Nomor 24 Tahun 1997 Tentang Pendaftaran Tanah*, PMNA Nomor 3 Tahun 1997, Article 114.

²² Agata Tri Putri Margaret dan Sapardiyono, "Pelaksanaan Layanan Hak Tanggungan Terintegrasi Secara Elektronik," *Jurnal Widya BHUMI* 1, No 2 (2021), p. 139.

2. The PPAT submits the deed and the complete supporting documents as referred to in Article 9 paragraph (2) through the electronic system of the partner integrated with the HT-el system. The submission of documents is accompanied by a Statement Letter regarding the accountability for the validity and accuracy of the submitted Electronic Document data. (Article 10)
3. HT-el service applications that have been received by the HT-el System are given a proof of application registration issued by the system. (Article 11)
4. After the PNPB payment is made, the application is processed by the HT-el system. (Article 12)
5. The Head of the Land Office or the designated official must verify the compliance of the required documents and the HT-el Certificate draft in the HT-el system.
6. If there are incomplete or inconsistent documents, the creditor and/or PPAT must be notified to promptly complete the files. The document must be completed no later than 5 days from the date the service application is received by the HT-EL System.
7. If the document is not corrected within that time, the application will be declared void.
8. In the event that the required documents are in order, the head of the land office or the designated official will approve the uploaded required documents and the HT-el certificate draft.
9. In the event that the Head of the Land Office or the designated official does not review the specified documents by the 7th day and the HT-el service results are issued by the HT-el system, it is considered as granting approval and/or endorsement.
10. The result of HTel services in the form of electronic documents issued by the HT-el system includes:
 - a. HT-el Certificate
 - b. Note of mortgage on the land certificate of land rights or ownership rights on a strata title
 - c. Note of mortgage on the land title certificate or ownership of a unit in a strata title.

From this, differences were found between conventional mortgage registration and electronic mortgage registration, namely:²³

²³ Shinta Pangesti dan Prilly Priscilla Sahetapy. "Pendaftaran Hak Tanggungan sebelum dan setelah berlakunya Peraturan Menteri Agraria/Kepala BPN Nomor 5 Tahun 2020," *Jurnal Tunas Agraria* 6, No. 2 (2023), p. 83-84.

Comparative Factor	Conventional Mortgage Rights	Electronic Mortgage
Legal Basis	Permen ATR/BPN KBPN 3/1997	Permen ATR/BPN 5/2020
Role of the Parties	1. PPAT 2. Land Office 3. Debtor	1. PPAT 2. Land Office 3. Creditor
Registration Method	Physical interaction by coming directly to the land office	There is absolutely no physical interaction, the registration method uses an electronic mortgage rights system.
Requirements documents	Original documents and notarized photocopies submitted directly by the PPAT to the Land Office	The original document that was scanned and uploaded through the electronic system
PNBP	1. Paid directly by the PPAT at the payment counter of the Land Office 2. The PNBP tariff is regulated in PP 128/2015.	1. Paid by PPAT through an electronic system after first receiving the billing code from the creditor. 2. The PNBP tariff is regulated in PP 128/2015.
Time	1. Hanya It can only be done on weekdays and during working hours. 2. The result of the registration of the encumbrance is usually	1. Registration can be done anytime and anywhere. 2. The results of the mortgage registration can be accessed directly by the creditor on the 7th day after the registration

	obtained in more than 7 days.	application is confirmed.
Registration Results	1. The result of the mortgage registration in the form of a mortgage certificate and notes on the land title certificate and land book. 2. The registration results are typed or handwritten by the land office staff. 3. The land office issues the registration results physically in paper form. 4. The creditor receives the registration results issued by the Land Office through the PPAT, without any involvement.	1. The result of the registration of encumbrance rights in the form of an encumbrance certificate and notes on the land rights certificate and land book. 2. The registration results are automatically issued by the electronic system based on the data uploaded by the PPAT and the creditor. 3. The land office issues the registration results and prints and attaches the mortgage record to the land title book. 4. The creditor independently accesses and prints the registration results, and attaches the mortgage record to the land title certificate.
Roya	1. The application is submitted by the debtor by coming directly to the land office.	1. The application is submitted by the creditor through the electronic mortgage system.

	2. The roya process is carried out physically. 3. The physical result of the roya, in paper form,	2. The release process is carried out through an electronic system. 3. The result of the roya is in the form of an electronic document. Rita's notes are printed and affixed by the creditor (on the land title certificate) and by the Land Office (on the land book).
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This difference also indicates a paradigm shift in the process of registering a Mortgage Right, from a rigid rule-based approach in the conventional system to a technology-based governance approach. Although HT-el accelerates the process and increases efficiency, it is important to note that the validity of electronic documents must also be maintained to ensure that the principles of legal certainty and legal protection for the parties are not neglected. Currently, after the implementation of HT-el, conventional mortgage registration services have been discontinued.

Based on the above, HT-el provides several benefits, especially in terms of time, labor, and cost efficiency. In addition, creditors and PPAT can directly coordinate with the Land Office regarding the required documents. In terms of time, HT-el simplifies the process of registering collateral rights without the need to be physically present at the land office, while also providing certainty regarding the issuance time of the collateral rights certificate, which will be received within seven days after registration. Although the HT-el process has been implemented, the regulations referring to the implementing regulations are still based on the UUHT.²⁴

B. Electronic Mortgage Rights After the Enactment of Government Regulation Number 18 of 2021

²⁴ Peraturan Menteri Agraria dan Tata Ruang/Kepala Badan Pertanahan Nasional Republik Indonesia tentang Pelayanan Hak Tanggungan Terintegrasi Secara Elektronik. Permen ATR/BPN Nomor 5 Tahun 2020, Mengingat (3).

On February 2, 2021, Government Regulation Number 18 of 2021 was enacted, one of whose articles regulates the registration of electronic mortgage rights. Based on Article 89 of Government Regulation Number 18 of 2021 concerning Management Rights, Land Rights, Apartment Units, and Land Registration, the registration of electronic security rights must be completed within a maximum of 7 (seven) calendar days after the documents required for the registration of security rights are declared to meet the requirements.²⁵ In Article 13 paragraph 4 of the UUHT, it is stipulated that the issuance of a mortgage is determined on the seventh day, whereas in Article 89 of PP 18 of 2021, it is regulated that the completion period for an electronic mortgage is a maximum of 7 (seven) calendar days. This change occurred without previously amending the provisions of Article 13, paragraph 4 of the UUHT.

Overall, this government regulation emerges as one of the derivative regulations of Law Number 11 of 2020 concerning Job Creation (hereinafter referred to as UUCK).²⁶ Specifically in terms of the policy for accelerating electronic-based land registration, which will later address the bureaucratic and regulatory obstacles and challenges that hinder economic and business growth in Indonesia.²⁷

According to Nurhasan Ismail, the formation of Government Regulation Number 18 of 2021 is only based on the Job Creation Law and does not mention the Basic Agrarian Law as a reference. Although UUPA is not mentioned as the basis for "considering," UUPA must still be referenced.²⁸ The UUPA serves as the legal umbrella and reference for all agrarian regulations in Indonesia. As a framework law, it has a higher status than other laws in the hierarchy (*lex superior derogate legi inferior*), serves as a special law (*lex specialis derogate legi generali*), and can supersede older laws when a new law regulates the same matter (*lex posterior derogate legi priori*).²⁹ UUHT, which regulates land rights guarantees, refers to UUPA. If related to the Mortgage Right, the establishment of PP 18 of 2021 also does not refer to UUHT. This means that the substance of PP 18 of 2021 must elaborate on the provisions of both UUHT and UUCK as long as the provisions of UUCK do not conflict with UUHT.

²⁵ Peraturan Pemerintah Tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun dan Pendaftaran Tanah, PP Nomor 18 Tahun 2021, LN No.28 Tahun 2021 TLN. No.6630, Article 89.

²⁶ Seventina Monda Devita, "Perkembangan Hak Pengelolaan Atas Tanah Sebelum Dan Sesudah Peraturan Pemerintah Nomor 18 Tahun 2021 Tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun Dan Pendaftaran Tanah," *Rewang Rencang : Jurnal Hukum Lex Generalis* 2, No. 9 (2021), p. 883.

²⁷ PP Nomor 18 Tahun 2021.... Public Explain.

²⁸ Gloria, "Pakar UGM: Terdapat Sejumlah Inkonsistensi dalam PP No. 18 Tahun 2021." Universitas Gadjah Mada, 20 September 2021, tersedia pada <https://ugm.ac.id/id/berita/21701-pakar-ugm-terdapat-sejumlah-inkonsistensi-dalam-pp-no-18-tahun-2021/>, diakses pada tanggal 01 Mei 2025.

²⁹ Sri Rahayu Muh. Saleh, Elya Septiani, dan Nisrina Atiqah, "Studi Komparatif Hukum Pendaftaran Tanah Pra dan Pasca Undang-Undang Cipta Kerja," *ULIL ALBAB : Jurnal Imliah Multidisipilin* 3, No. 3 (2024), p. 424.

In the context of electronic land registration, it is expected to regulate and move towards good governance in the land sector, thereby encouraging a reduction in agrarian conflicts.³⁰ However, in reality, the vertical inconsistency lies in the reference basis, such as PP 18 of 2021 referring to Article 142 and Article 185 letter b of the UUCK. In fact, in the context of mortgage rights, UUHT and its implementing regulations such as PP No. 24 of 1997 and Perkabpn 24 of 1997 have already been regulated.

Vertical inconsistency in legislation often arises due to the addition, reduction, or alteration of higher norms, leading to legal uncertainty and injustice. This often occurs when, in formulating a regulation, the rule-makers, namely agents of social change and agents of social control, do not optimally involve the public, and the inconsistency can also be caused by a rushed regulatory drafting process or by the influence of certain economic-political interests.³¹

Currently, electronic mortgage certificates can be issued before the seventh day, and the maximum completion time for the service is 7 calendar days. For the issuance of the electronic mortgage certificate before the seventh day, several conditions must be met, such as the completeness of the mortgage registration application documents and the land in question not being an object of court proceedings, not being subject to a status quo order by the judge handling the case, or not being subject to court seizure.³² The examination is conducted in stages by land office officials or designated officers, and if all requirements are met, the electronic mortgage certificate is approved by the Head of the Land Office.³³

The acceleration of the completion of mortgage registration can also be seen from the Decree of the Minister of Agrarian Affairs and Spatial Planning/Head of the National Land Agency of the Republic of Indonesia Number 440/SK-HR.02/III/2023 concerning 7 (seven) Priority Land Services effective from March 6, 2023, which also references the UUPA, but does not include UUHT or PP Number 18 of 2021 as references in the "considering" section. The decision makes electronic mortgage rights one of the priority services at land offices with a maximum completion time of 7 (seven) calendar days. Previously, the innovation from manual mortgage to electronic mortgage was merely a difference in the media for registering the mortgage and the format of the service output, which is an electronic document. However, with the issuance of this new regulation, the process of registering encumbrances can be completed more quickly. This acceleration has

³⁰ Androva Renandra Tetama, "Politik Hukum Pendaftaran Tanah Elektronik Pasca Undang-Undang Cipta Kerja," *Tunas Agraria* 6, No. 1 (2023), p. 35.

³¹ Putri Maufiroh, Bagus Renata Rachman dan Ety Purnaningrum, "Kajian Hukum Terhadap Inkonsistensi Vertical Peraturan Pemerintah Nomor 18 Tahun 2021," *Jurnal Education and development Institut Pendidikan Tapanuli Selatan* 9, No. 4 (2021), p. 193.

³² PP Nomor 18 Tahun 2021..., Explanation of The Article 89.

³³ Petunjuk Teknis Tentang Pelayanan Hak Tanggungan Terintegrasi Secara Elektronik Nomor 2/Juknis-400.HR.02/IV/2020, p. 39.

legal implications for the holders of the Mortgage Rights, namely creditors as preferred creditors, who can now obtain their status more quickly. In addition, this acceleration is also expected to drive economic growth in line with the objectives of the government regulation.

Sociologically, the implementation of the accelerated issuance of electronic mortgage rights aims to enhance efficiency and transparency in land services, as well as support a conducive investment climate. Philosophically, this is an effort by the government to balance the need for legal certainty and adaptation to the development of information technology. However, the differences in provisions between Government Regulation Number 18 of 2021 and the Land Acquisition Law (UUHT) regarding the issuance of mortgage rights create inconsistencies that can disrupt the principle of legal order.

If compared to the fiduciary guarantee institution regulated in Law Number 42 of 1999 concerning Fiduciary Guarantees, the derivative regulations for the implementation of fiduciary guarantee registration are based on that fiduciary guarantee law. Fiduciary is the right of security over tangible movable objects, or those that cannot be encumbered with a mortgage according to the Mortgage Law, owned by the fiduciary recipient registered at the Fiduciary Registration Office, as collateral for the repayment of certain debts and has the right to be prioritized over other creditors.³⁴ Currently, the registration of fiduciary guarantees is carried out electronically as regulated in Government Regulation Number 21 of 2015 concerning the Procedure for Registration of Fiduciary Guarantees and the Cost of Making Fiduciary Deeds in conjunction with the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number 25 of 2021 concerning the Procedure for Registration, Amendment, and Deletion of Fiduciary Guarantees. All implementing regulations regarding the registration of Fiduciary refer to the Fiduciary Guarantee Law.

4. Conclusion

1) The difference between conventional and electronic mortgage registration lies in the procedures, tools, and legal approaches used. Conventionally, the registration process is conducted manually through face-to-face services at land service counters, with an administrative process that takes more than seven days and the active involvement of PPAT in submitting physical documents. Normatively, it refers to the provisions of Article 13 paragraph (4) of the UUHT that the mortgage right is issued on the seventh day after the complete file is received. On the other hand, electronic registration or HT-el can be fully conducted through an online-based application that integrates PPAT, Financial

³⁴ Wieke Dewi Suryandari, *Kewajiban Pendaftaran Jaminan Fidusia*, (Eureka Media Aksara : 2024) , cet. 1, p. 59.

Services, and the Land Office. HT-el aims for efficiency, transparency, and accelerated services, as regulated in the ATR/BPN Ministerial Regulation No. 5 of 2020. In addition, the results of HT-el are issued in the form of electronic documents, no longer physical documents as in the conventional system. From this change, there is a shift from a rule-based approach to a technology-based governance approach in its registration service system.

2) After the enactment of Government Regulation Number 18 of 2021, the issuance of electronic Mortgage Rights (HT-el) is expedited with a maximum time limit of seven calendar days from the date the document is declared complete. This provision differs from Article 13 paragraph (4) of the UUHT, which states that the mortgage right arises on the seventh day after the application is deemed complete, thereby causing a legal inconsistency. This inconsistency results in legal uncertainty and disorder in the implementation of HT-el registration because Government Regulation Number 18 of 2021 does not explicitly refer to the Mortgage Law (UUHT) as the legal basis, but rather the Job Creation Law (UUCK). The expedited issuance of HT-el certificates brings practical benefits such as time efficiency, ease of service, and the accelerated recognition of creditors as preferred creditors. However, it should still adhere to the principles of legality and the hierarchy of laws and regulations.

SUGGESTIONS

From the perspective of the principles of legal order and legal certainty, it is important to review the norms in Government Regulation Number 18 of 2021 or revise the Land Acquisition Law (UUHT) to adapt to the development of an electronic-based land service system. However, considering that changes to the Law require a long and complex legislative process, a quicker and more realistic step is to amend the references in PP Number 18 of 2021 and ministerial regulations while still adhering to the provisions of the UUHT. This legal harmonization needs to be carried out immediately to prevent overlapping norms that could raise doubts about the validity of collateral rights and weaken legal protection for creditors. Moreover, harmonization will strengthen the integration of the national legal system, making it adaptive to technological innovations.

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Peraturan Pemerintah Tentang Hak Pengelolaan, Hak Atas Tanah, Satuan Rumah Susun dan Pendaftaran Tanah. PP Nomor 18 Tahun 2021. LN No. 28 Tahun 2021 TLN No.6630.

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