

ABSTRACT

Aldixander (01051180033)

JURIDICAL ANALYSIS OF REGULATION OF THE MINISTER OF COMMUNICATION AND INFORMATION NO. 5 OF 2020 REGARDING THE AUTHORITY OF THE INDONESIAN GOVERNMENT IN ACCESSING PERSONAL DATA

(xi + 88 pages)

Personal data is one of the crucial things to be protected at this time because personal data is a privacy right, which is also a basic right protected by the Indonesian constitution in Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945). However, Indonesia, does not yet have regulations that comprehensively regulate Personal Data Protection. Instead of ratifying the Personal Data Protection Regulation (RUU PDP), Indonesian Government, through the Minister of Communications and Information Technology, issued Regulation of the Minister of Communication and Information Number 5 of 2020 concerning the Implementation of Private Scope Electronic Systems (Permenkominfo 5/2020), which is a derivative regulations from Government Regulation Number 71 of 2019 concerning the Implementation of Electronic Systems and Transactions (PP 71/2019). Unfortunately, several provisions of Permenkominfo 5/2020 touch the private sphere, such as Article 21 and Article 36 which require the Private Scope Electronic System Operator (PSE Lingkup Privat) to provide access to Personal Data and/or Specific Personal Data to the Ministry and Law Enforcement Officials. This provision also opens the door for the misuse of Personal Data by the Ministry and Law Enforcement Officials. Therefore, this research was conducted in order to provide an explanation of the authority of the Indonesian Government in accessing Personal Data based on Permenkominfo 5/2020, whether the granting of access violates the principles of personal data protection regulations or not, as well as explaining the legal protection for Users if their Personal Data is misused by the Ministry and Law Enforcement Officials. This research uses normative legal methods by studying various laws and regulations regarding Personal Data and its protection, as well as regulations regarding Electronic System Operators, such as the General Data Protection Regulation (GDPR), Law Number 11 of 2008 as amended by Law Number 19 of 2016 concerning Information and Electronic Transactions (UU ITE), PP 71/2019, Regulation of the Minister of Communication and Information Number 20 of 2016 concerning Protection of Personal Data in Electronic Systems (Permenkominfo 20/2016), and Permenkominfo 5/2020 itself.

Keywords: Personal Data, Personal Data Protection, Private Scope Electronic System Operator, Permenkominfo 5/2020.

References: 61 (1945-2021)