

**THE ASEAN HARMONIZATION POLICIES AMONG MEMBERS ON
PERSONAL DATA PROTECTION LAW TO STRENGTHEN E-COMMERCE:
FOCUS ON INDONESIA**

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ABSTRACT

This article evaluates the efficacy of Indonesia's data protection laws in bolstering the foundations of the ASEAN Economic Community (AEC), characterized by dynamism, productivity, and competitiveness. The AEC is required to evaluate the interrelated policies of all subjects and member nations. Policy countries may encounter prevalent economic challenges. Consequently, they must be adequately prepared. Indonesia must enhance its output in terms of quantity while ensuring quality development to remain competitive within the AEC, particularly in the highly competitive economic regions, as the second pillar of AEC 2015. It will be achieved through multiple collaborations, particularly in the domain of e-commerce policy. The e-ASEAN framework outlines several strategic metrics in this context. The primary concerns include the suitability of the operating system, security measures, the accuracy of the framework, the reliability of electronic identity, signature authorization, and comprehensive protection of personal data. This paper utilizes a descriptive-analytic approach through normative legal research, referencing legal sources, including the ASEAN Framework on E-Commerce, the Indonesian Law on Commerce, and the Law on Personal Data Protection. The study suggests that Indonesia should advocate for the focused and

efficient enactment of personal data protection rules to synchronize with the evolving foundations of productivity, competitiveness, and efficiency within the AEC. Cross-border data transmission among ASEAN member nations is essential for facilitating e-commerce transactions. The government is obligated to safeguard consumer interests. The findings of this study influence the Indonesian government's strategies for enforcing personal data privacy in e-commerce.

Keywords: AEC Pillars on E-commerce; Adequate Protection; Indonesian Law on Personal Data Protection; Harmonisation Policies

INTRODUCTION

As of January 1, 2016, the ASEAN Economic Community (AEC) applies to ten countries with ASEAN membership. The community of ASEAN countries wants closer and more integrated cooperation. The Agreement has four foundations (pillars) in the AEC, namely:

- a single market and production base,
- a competitive economic region,
- equitable economic development, and
- integration with the global economy.

A unified market and production framework facilitates the unrestricted movement of goods, services, investments, and skilled labour, as well as capital, among ASEAN nations (ASEAN, n.d.-a)

Indonesia has the largest population in Southeast Asia, with more than 250 million inhabitants, making Indonesia a vast market. The Directorate General of Population and Civil Registration, under the auspices of the Ministry of Home Affairs, has provided information that, as of the initial semester of 2024, the demographic composition in Indonesia reached 282,477,584 people. One million seven hundred fifty-two thousand one hundred fifty-six people increase compared to the second semester of 2023. (Nabilah Muhamad, 2024) The research data from the Global Quality Infrastructure Index (GQII) 2023, released in May 2024, shows that Indonesia's infrastructure quality is ranked 27th globally. (HARMES-LIEDTKE, 2024). These conditions give Indonesia the most superior national quality infrastructure in ASEAN. (Humas BSSN, 2024). Nevertheless, Indonesia is the 12th top manufacturing country by value added in the world, with a manufacturing value added (MVA) of US\$255 billion. Indonesia lags behind other ASEAN member countries, including Thailand and Vietnam, which have

MVA values of only US\$128 billion, approximately half of Indonesia's. (Deny, 2024)

The AEC seeks to create a unified market and production base that facilitates equitable goods movement by 2015, so it requires a holistic approach that includes existing and additional measures under one umbrella. In the context of trade, the AEC does not specifically impose regulations, as ASEAN nations have successfully lowered tariffs to as low as 0% via the Common Effective Preferential Tariff System, which has been executed progressively since 2003. Despite this system, ASEAN countries can determine specific product rules and implement non-tariff barriers. Then, the ASEAN Trade in Goods Agreement (ATIGA) formalizes several ministerial decisions, unifying and simplifying all of the Common Effective Preferential Tariff for ASEAN Free Trade Agreement (CEPT-AFTA) requirements. Because of this, the ATIGA has been reduced to a single legal document that unifies and simplifies all of its provisions for the private sector, which benefits from it, and government authorities, who carry out and enforce it.

Regarding the issue of trade implementation, AEC has also created a framework for e-commerce. The AEC Blueprint 2025 asserts the necessity for ASEAN to deepen collaborative efforts in the realm of e-commerce in accordance with Article 5 of the e-ASEAN Framework Agreement endorsed by ASEAN Leaders. The ASEAN Agreement on E-commerce Development aims to enhance cross-border e-commerce transactions within ASEAN. The framework encompasses various policies, notably a comprehensive and accommodating approach to safeguarding personal data.

The E-commerce Agreement, which was signed on January 22, 2019, established common principles and rules to enhance the capacity to implement the agreements and promote the development of e-commerce in the region. This agreement is expected to facilitate the existing regulations governing regional e-commerce transactions and contribute to the development of a regionally integrated digital economy. The E-commerce Agreement is now in effect, and its execution is crucial, especially in recovering a country's economy. P. Sengpunya strengthens the idea that e-commerce is a fundamentally different business method and can potentially be a significant force for global development and economic growth. (Phet Sengpunya, 2019)

Law number 4 of 2021 relates to the ratification of the ASEAN Agreement on Electronic Commerce, indicating Indonesia's commitment to implementing the

ASEAN Agreement. This situation presents a chance for Indonesia to enhance its e-commerce sector on an ASEAN scale, with the expectation that it will positively influence domestic growth. The Law must increase the trade value of goods and services through electronic trading systems. It is the same action that could be taken to increase the competitiveness of domestic business actors and create solutions to enable the national Macro, Small and Medium Enterprises (UMKM) to participate in the global value chain.

In the current digital landscape, safeguarding data is essential to instil trust among investors and the public, ensuring they feel secure and at ease when making investment decisions. The second AEC Pillar on the Competitive Economic Region illustrates that ASEAN will be one of the places in a competitive world economic system that will benefit the ASEAN community. Nonetheless, it is essential for all ASEAN Countries, including Indonesia, to fulfil their international obligations. It includes establishing a connected and secure information infrastructure, developing a robust legal framework for e-commerce, and ensuring consumer protection. The Indonesian Government seems to know that the second pillar of the AEC has become very important in achieving competitive, productive, and dynamic concepts in various sectors. The Government of Indonesia responded by enacting the Personal Data Protection Law on October 17, 2022, designated as Law Number 27 of 2022. Indonesia has enacted Law Number 1 of 2024, which serves as the second amendment to Law Number 11 of 2008 regarding Electronic Information and Transactions.

This paper examines the efficacy of Indonesia's data protection law in safeguarding data information within e-commerce and cross-border transactions and its role in protecting online consumers during electronic transactions. In this regard, Indonesia's data protection law must be harmonized with other ASEAN member laws.

METHODOLOGY

This article is conceptual – descriptive, and analytical. It is qualitative research that employs normative legal research. The primary legal sources are the ASEAN Framework on E-Commerce, the Indonesian Law on Commerce, the Law on Personal Data Protection, UNCITRAL, and the Framework Agreement on Facilitation of Cross-border Paperless Trade in Asia and the Pacific. This article uses a conceptual approach regarding the issues of personal data protection among the ASEAN Countries and specifically the issue of AEC and its dynamic

pillars to boost and strengthen e-commerce as it is well-known in the blueprint of ASEAN Digital Masterplan 2025.

RESULT AND DISCUSSION

1. The present state of e-commerce in Indonesia

The ASEAN Digital Masterplan 2025 (ADM, 2025) envisions ASEAN as a prominent digital community and economic bloc driven by secure and transformative digital services, technologies, and ecosystems. (ASEAN Secretariat, n.d.) In this sense, ASEAN strengthened secure digital services, technologies, and ecosystems in e-commerce. Consumers need to trust the services, including the newest and emerging technologies, to encourage the adoption of digital services. It is essential to establish robust cyber security measures and effective digital data governance to mitigate the impact of breaches on both businesses and consumers. Building trust is also essential. ADM 2025 formulates in point DO3, which mentions delivering trusted digital services and preventing consumer harm.

Additionally, in point EA3.3, ADM 2025 aims to identify detrimental alterations in legal and regulatory frameworks concerning data protection administrations and other data-related activities (Secretariat, 2020). In this regard, Indonesia needs to protect data and other data related to e-commerce activities, which may harm consumers and traders. However, there is the ASEAN Framework on Personal Data Protection and the ASEAN Framework on Digital Data Governance. Indonesia must take action and implement rules to protect its data.

In 2020, the Indonesian Cabinet Secretariat released the Statement of the Indonesian President (at that time), Mr Joko Widodo, that the effect of the COVID-19 pandemic worldwide must be utilized to accelerate digital economic development. (Humas Sekretariat Kabinet Republik Indonesia, n.d.) Further, the potential of the Indonesian digital market is promising. Each year, the Internet market penetration is significantly increasing. The micro potentially develops the economic digital, small, and medium enterprises (MSME).

Sudarwanto and Kharisma stated that Indonesia possesses the largest digital economy value in the Southeast Asian regions. In 2020, the assessment of the Indonesian Digital Economy was valued at US\$ 14 billion. (Al Sentot Sudarwanto and Dona Budi Kharisma, 2021) Thus, Indonesia's activities in the digital economy that lead in Southeast Asia must be followed by strict laws and

regulations to certify the security and satisfaction of both parties, especially those related to personal data.

According to katadata.co.id, in 2022, Tokopedia and Shopee will remain the leading Indonesian e-commerce market. Both shopping markets are in fierce competition. This competition can be seen in the average number of visitors each month. (Dihni, 2022). It means that the market of Indonesian commerce can grow in competition to strengthen the Indonesian economy. Indonesia has witnessed substantial growth in e-commerce. According to data from the Indonesian Ministry of Communication and Information, e-commerce transactions totalled IDR 266,3 trillion in 2020, with projections for continued growth due to rising internet and smartphone penetration. Despite the economic advantages, certain legal challenges remain. Customer legal protection in e-commerce transactions is a vital concern, considering the widespread occurrence of online fraud and customer data privacy. (Sanusi, 2024)

Though the e-commerce and digital economy are growing fast, the growth itself faces various challenges. The challenge is in the form of breaches of data cases. According to Sudarwanto and Kharisma, a report by the Indonesian Consumers Foundation indicates that out of 277 cyber-attack cases recorded from January to June 2020, 54 were instances of data theft, specifically within the e-commerce sector. The Indonesian Consumers Foundation has documented a total of twenty-seven instances of data breaches related to peer-to-peer lending, alongside five occurrences involving e-money services. (Sudarwanto & Kharisma, 2021) Indonesia is still facing data leaks. According to the national tempo.co, from January to September 2022, there were at least seven significant data breach cases. (Nurhadi, 2022) However, the increasing frequency of data breaches suggests that the current controls and oversight programs for digital platforms are insufficient. In this regard, the organizational significance of personal data protection is needed.

Due to e-commerce being based on the internet application, everyone using it must input data. It is vulnerable to being breached. The vulnerable personal data that may be breached illegally is the person's identity being exposed or stolen. Unfortunately, not everyone realizes that data is essential. It is a part of the property that needs to be protected. People need to be aware of how protection is needed. The disorder that occurs in social protection in the era of the digital economy requires the Law as a guardian so that developments in the digital economy run in an orderly manner. Indonesia has enacted Law Number 27 of 2022

concerning Personal Data Protection, which effectively addresses the essential aspects of data protection and assigns accountability to entities for safeguarding data. The presence of Personal Data Protection has not significantly diminished the occurrence of personal data breaches as intended.

Indonesia has established Law Number 7 of 2014 concerning Trade/Commerce, precisely arranging e-commerce only on two Articles, Articles 65-66. In principle, Indonesian trade/commerce policy must be based on the following:

- National interest indicates that all trade policies should prioritize the interests of the nation, state, and society above other considerations;
- Legal certainty establishes the foundation for policies and controls in trade by clearly defining the applicable laws and regulations;
- Fairness and justice are described as the equality of opportunity and standing in business activities among producers, traders, and other business participants, aimed at fostering a conducive business environment that guarantees certainty and equal opportunities for all involved;
- Business activity is identified as security assurances for all Business Actors throughout every phase of trading activities, from the planning for conducting trade to the execution of trade activities;
- The implementation of trade activities must adhere to principles of accountability and transparency, ensuring compliance with relevant laws and regulations while remaining open to public scrutiny;
- Independence signifies that all trading activities are conducted without reliance on external entities;
- A partnership embodies the collaborative dynamics present in the relationships among businesses within the trade sector, whether through direct or indirect engagement. This collaboration is founded on principles of mutual necessities, trust, reinforcement, and shared advantage, encompassing cooperatives and micro, small, and medium enterprises alongside larger corporations, as well as interactions between governmental entities and the private sector;
- Trade policies should benefit the national interest and promote public welfare;
- The goal of simplicity is to make it easier for Business Actors to deliver accurate information to the public;

- Togetherness represents a collaborative approach to trade, involving the Government, Regional governments, Business Actors, and the community working in unison and
- Environment insight represents a trade policy that emphasizes the importance of environmental sustainability and the principles of sustainable development.

Through Article 2, it is understood that Indonesian trade or commerce must be based on those principles. Additionally, Article 3 of Law Number 7 of 2014 addresses Trade/Commerce mentions that Regulations of Trade activities aimed at:

Based on the trade activities above, improving consumer protection is essential.

- Promoting national economic growth;
- Increasing the usage and trading of native products;
- Increase business opportunities and create jobs;
- Ensuring the smooth distribution and availability of necessities and essential goods;
- Improvement of trade facilities and infrastructures;
- Increasing partnerships between large companies and cooperatives, micro-enterprises, and SMEs, including both the public and private sectors;
- Increase the competitiveness of domestic products and enterprises;
- Improving the image of domestic products, market access, and domestic professionals;
- Increased product trade based on creative industries;
- Improving the protection of consumers;
- Increased the use of Indonesian National Standardization (SNI);
- Improve the protection of natural resources; and
- Improve monitoring of traded goods and services.

Article 65 of the Law on Trade or Commerce mentions trade/commerce through electronic or so-called e-commerce. Article 65, paragraph (1) emphasizes that economic operators utilizing electronic systems to trade goods and or services are required to furnish comprehensive and precise data and/or information. Additionally, paragraph (2) states that businesses are restricted from trading goods and or services through electronic systems that do not utilize the data or information specified in paragraph (1). Paragraph (3) states that the utilization of

the electronic system referenced in paragraph (1) must adhere to the stipulations outlined in the Electronic Information and Transaction Act concerning data and information.

Article 65, paragraph (5) clarifies that in the event of a dispute concerning commercial transactions conducted through electronic systems, the individual or entity involved in the dispute has the option to resolve it through courts or an alternative dispute resolution mechanism. Further, paragraph (6) emphasized that economic operators engaging in the trade of goods and/or services through electronic systems that fail to deliver complete and accurate data and/or information, as outlined in paragraph (10), will face administrative penalties, including the potential withdrawal of their licenses. Article 66 outlined additional stipulations concerning trade transactions conducted via electronic systems that are governed by or derived from Government Regulations.

Anjani and Santoso examined the complexities surrounding e-commerce law in Indonesia which the existence and acknowledgement of regulations and policies pertaining to e-commerce are evident. Nevertheless, the legal framework governing e-commerce operations in Indonesia remains only partially developed. The regulation is yet unspecific, regulating the fundamental things and technical infrastructure that support e-commerce realization in Indonesia. (Anjani & Santoso, 2018) Moreover, Indonesia must ensure that e-commerce uses certainty and protection to realize a tremendous and robust implementation of e-commerce. The ASEAN Agreement on e-commerce underscores the notion that e-commerce plays a crucial role in enhancing cross-border trade and investment while also alleviating entry barriers and costs for businesses, particularly micro, small and medium enterprises (MSMEs). (ASEAN, 2000) It is also stated that each member state shall protect consumers who use e-commerce. That protection must afford similar protection to other commerce consumers under relevant laws, regulations, and policies.

The Law on Electronic Information and Transaction (ITE) 2024 establishes stringent regulations for consumer data protection within the realm of e-commerce activities in Indonesia. Each e-commerce business must ensure the confidentiality and security of sensitive consumer information, which encompasses personal data, transaction history, and payment details. Zulkarnain and Zarzani explain that the rise of electronic transactions and commerce is one of the most fundamental innovations. It is integral to daily life. E-commerce enables

consumers and organizations to execute transactions swiftly and effectively, free from temporal and spatial limitations. (Zulkarnain & Zarzani, 2024)

2. Analysis of the ASEAN Framework Agreement on E-Commerce in Relation to Perspective International Agreements

On January 22, 2019, the ASEAN Agreement on Electronic Commerce was signed in Hanoi, Vietnam. The ASEAN Agreement on Electronic Commerce (AAEC) aims to promote economic growth and social development within the ASEAN region via e-commerce initiatives. The initiation of the AAEC was marked by the signing of the e-ASEAN framework Agreement by ASEAN leaders on November 24, 2020, in Singapore. This Agreement establishes a common reference framework for the legal infrastructure of e-commerce within ASEAN, as published by e-ASEAN. This Framework provides valuable guidance for ASEAN member states lacking existing regulations on e-commerce. The AAEC emphasizes the critical role of e-commerce in enhancing trade and investment across national boundaries. (ASEAN, n.d.-b) In addition, the Agreement will significantly reduce barriers to import duties and operating costs for small and medium-sized businesses. Moreover, ASEAN intends to establish a single regional market to facilitate the free movement of goods, services, investments, and capital flow. (Sengpunya, 2019)

Furthermore, encouraging the cross-border e-commerce exchange in Southeast Asian Nations is essential for maximizing the benefits of regional economic integration. Ultimately, this Agreement will create an environment of trust and confidence in using e-commerce in the ASEAN region. According to Zahra, facilitating e-commerce across national borders requires several key elements, including the implementation of paperless trading, the acknowledgement of the legal validity of electronic authentication and signatures, and the recognition of electronic information transfer across borders. Furthermore, according to Zahra, consumer protection is highlighted as essential. Consumer protection is critical because there are risks inherent in conducting e-commerce, such as unsecured online payment, fraud, unsafety products, shipping, lack of trust and inaccessible dispute settlement. (Zahra, n.d.)

In this ASEAN Agreement, there are several principles agreed upon by member states, namely providing legal rules that create a competitive and conducive business environment, as well as protecting common interests. The rules of Law must support e-commerce activities by following the rules of

international law and showing that countries do not create their own rules of Law that contradict each other. In addition, ease of dispute resolution through alternative dispute resolution facilitates claims from e-commerce transactions. Member states are anticipated to acknowledge technological advancements, uphold the principle of technological neutrality, and align regulations and policies to promote cross-border e-commerce. The commitment of Indonesia to the ASEAN Agreement on E-commerce reflects the government's dedication to fostering e-commerce and ensuring legal safeguards for all electronic transaction processes (Mufida et al., 2020). In this context, legal protection must encompass all electronic transactions within e-commerce. Indonesia possesses Law Number 11 of 2008 which has been amended by Law Number 19 of 2016, as amended through the second amendment by Law Number 1 of 2024 concerning Electronic Information and Transactions that warrants thorough elaboration.

Countries are anticipated to implement paperless trading, electronic authentication and signatures, online consumer protection, cross-border transfer of Information through electronic means, and online personal information protection to enhance cross-border e-commerce. Paperless trading involves the digital transformation of information exchange, facilitating the electronic transfer of trading-related data and documents. The transformation of data that traditionally used paper systems to electronic formats can speed up the trading process and reduce costs in a business. Paperless business transactions can be done in several ways, including pictures of scanned or pdf versions of paper documents. Another way is the electronic data interchange (EDI), where the parties exchange information electronically.

Nevertheless, this method of paperless trading seems straightforward but requires electronic adjustment or coordination across borders (World Economic Forum, 2017). Based on the explanation above, online personal information must be protected to facilitate the exchange of e-commerce among nations.

This paperless trading will benefit many parties, both from the trader's side and the Government. From the trader's side, it is the speed of sending data files quickly and accurately. Bottlenecks to supply chain management occurring so far can be quickly resolved with the ease of information and data exchange documents the parties need. This paperless system can increase profits for traders due to the rapid movement of goods and efficiency at the borders related to trade administration documents. Furthermore, this paperless trading helps businesses understand compliance and obligations to the rules more efficiently and cost

minimally, whether the rules are domestic or international. E-commerce is beneficial for small and medium-sized businesses to access the international market. (World Economic Forum, 2017)

Furthermore, from the government side, paperless trading plays a vital role in cross-border regulation cooperation, such as the standard of language dissemination in electronic message data. It also creates transparency so that it is convenient to monitor and track the location and status of the shipment. Another advantage of paperless trading is that it prevents the counterfeiting of goods and money laundering. Implementing paperless trading can contribute to the country creating an international commercial environment and building more business there, and the result is to increase the growth of the national economy.

However, paperless trading also has challenges, namely that not all countries apply the same standards and are too dependent on domestic rules regarding the validity of electronic documents and signatures electronics, which will require additional requirements if this is done. In addition, there is the possibility of a loss of funds up to the occurrence of fraud in cyberspace. The troubling thing is the theft of customer data information. (Mufida et al., 2020) In Indonesia, there have been several incidents of theft of customer data information, such as the case of Denny Siregar against Telkomsel Indonesia. The case is where one of Telkomsel's employees spread Denny Siregar's data to the public.

The realm of paperless trading often only emphasizes the process of using technology. The implementation of technological processes constitutes merely a small fraction of what drives the success of e-commerce. The framework agreement on the Facilitation of Cross-Border Paperless Trading in Asia and the Pacific, as adopted by the United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) as a United Nations Treaty, has the objective of promoting cross-border paperless trade by enabling the exchange and mutual recognition of trade-related data and documents in electronic form and facilitating interoperability among national and subregional single windows and/or other paperless trade systems, for the purposes of making international trade transaction more efficient and transparent while improving regulatory compliance (Article 1). In its consideration, the Agreement recognizes that paperless trade makes international trade more efficient and transparent while improving regulatory compliance, particularly if trade-related data and documents in electronic form are exchanged across borders.

Further, in the UNCITRAL model law, there is are main principle, namely non-discrimination, which should not distinguish between electronic and paper communications when entering documents requested by institutions. Second is the principle of similarity of functions, in which paper-based functions can be replicated with electronic procedures that reflect paper-based procedures but are functionally the same as before the Law. Third, the principle of technological neutrality ensures that the rule of Law does not defend a particular technology, in which any person or organization is free to use technology suitable for their needs for development and commercialization. (World Economic Forum, 2017)

With the development of internet use in various fields, such as trade and investigations, the protection of users or business actors has become very important. Many countries have enacted legislation to protect internet users. Indonesian Law Number 11 of 2008 aims to protect everyone who conducts electronic transactions in Indonesia's territorial territory. This Law governs the application of electronic signatures, ensuring that such signatures possess substantial legal authority and reliability in judicial proceedings. In addition, electronic transactions have a binding force for the parties. With cross-border e-commerce, countries must create a payment system that is safe, efficient and interoperable, following the rule of Law that applies in each country. (World Economic Forum, 2017) The implementation of e-commerce in Indonesia presents numerous advantages for its population, including significant developments in the business world in Indonesia, where the scale reached is at the national and international levels. For entrepreneurs, e-commerce can reduce production costs efficiently and faster.(Mufida et al., 2020) Another exciting thing, especially for customers, is the variety of models and types of goods traded. Even e-commerce has attracted around 25% of the attention yearly, and 65 million people will use e-commerce in transactions in 2022. (Mufida et al., 2020)

Another obligation of the ASEAN Agreement is to build capabilities to create cyber security by exchanging information from ASEAN member states. The need for cyber security is becoming very important because of the increasing prevalence of cyber threats that harm individuals, governments and businesses. ASEAN is prioritizing the development of cyber security in the military and defence areas, hoping that countries raise awareness of cyber security challenges, leverage capabilities among ASEAN countries and external partners, and develop cooperation mechanisms and solutions. (ASEAN Secretariat, 2001) The issue of cybersecurity has been raised since the vast development of cyber threats.

3. Examination of Data Protection Regulation in Indonesia: Evaluating Competitiveness within ASEAN

Personal data protection constitutes an essential aspect of human rights and is integral to the broader framework of privacy rights. In this context, a legal framework is essential for ensuring privacy and security in data protection. The ASEAN Legal Framework on Personal Data Protection stipulates that all member states must recognize the necessity of safeguarding personal data and preventing its misuse. (The Telecommunications, n.d.) There are a minimum of seven principles that encompass this topic: Consent, notification and purpose; Accuracy of personal data; Security safeguards; Access and correction; Transfer to another country and territory; Retention; and Accountability.

Safeguarding personal data upholds individuals' rights to self-protection, enhances public awareness, and reinforces the recognition and respect for the significance of data protection. Personal data protection seeks to enhance awareness regarding the significance of personal data and the necessity of safeguarding it. Indonesia possesses a framework of regulations but remains spread in some laws and regulations. Indonesia subsequently enhanced the efficacy of its data protection measures by enacting a dedicated statute known as the Personal Data Protection Law. The new law, designated as the Law Number 27 of 2022, was enacted on October 17, 2022.

Article 1 number (1) defines Personal Data. Personal Data refers to information that pertains to an individual who can be identified, either directly or indirectly, through the use of various electronic or non-electronic systems, whether separate or in conjunction with other data. Protection of this personal data is essential. Article 1 number (2) defines personal data protection as the comprehensive effort to safeguard personal data throughout the processing phase, ensuring the constitutional rights of the individuals to whom the Personal data pertains. It is enhanced for the processing of personal data. The Law on Data Protection defines a personal data subject as an individual associated with personal data (see Article 1 number (6)).

The scope of the Law is mentioned in Article 2 below:

- The law is applicable to any individual, public institution and international organization engaged in legal acts as stipulated in this act:

- a. Individuals and entities within the jurisdiction of the Republic of Indonesia; and Who is in the Jurisdiction of the Republic of Indonesia and
 - b. Those outside the jurisdiction of the Republic of Indonesia, which entails legal implications:
 - 1. Within the legal framework of the Republic of Indonesia and/or
 - 2. Concerning personal data subjects of Indonesian citizens located outside the legal boundaries of the Republic of Indonesia.
- This Act is not applicable to the processing of personal data by individuals engaged in personal or household activities.

Article 3 of the Law on Personal Data Protection mentions that the Law must be based on the following:

- a. Protection;
- b. Legal certainty;
- c. Public interest;
- d. Expediency;
- e. Caution;
- f. Balance;
- g. Liability; and
- h. Confidentiality.

There are two categories of personal data: specific personal data and general personal data (interalia Article 4). Personal data of a specific nature include: a. Health data and information; b Biometric; c. Genetic data; d. Crime records, e. Child data; f. Personal financial data and/or g. other data is based on the provisions of laws and regulations. General personal data encompasses a. complete name; b. gender; c. citizenship; d. religious affiliation, e., marital status, and/or f. personal information that can be used to identify an individual.

The Law did not categorize phone numbers and e-mails as personal data. However, the hacker has consistently breached these phone numbers and e-mails. The law needs to be rethought and re-categorize.

In comparison to the ASEAN Framework on Personal Data Protection, certain principles are essential for implementation by the State Party. The principles outlined in the previous explanation are as follows:

- i. Organizations must obtain consent, provide notification, and clarify the purpose before collecting, using, or disclosing an individual's data.
- ii. Emphasizing the necessity for personal information to be accurate and complete to the extent required for its intended purpose(s) of use or dissemination.
- iii. Personal data must be accurate and complete as required for the intended purpose(s) of its use or dissemination.
- iv. Personal data must be protected from loss and unauthorized access, as well as from collection, use, disclosure, copying, alteration, destruction, and other associated risks, as outlined in security safeguards.
- v. Access and Correction stipulate that upon receiving a request from an individual, an organization is required to (i) provide access to any personal information it possesses or controls within a reasonable timeframe and (ii) rectify any inaccuracies or omissions in that information unless prohibited or permitted by applicable domestic laws and regulations in specific circumstances.
- vi. Transferring personal information to another nation raises concerns about the exchange of information. Organizations must obtain individual consent for such transfers or implement reasonable measures to ensure that the receiving entity will protect personal data in accordance with established standards.
- vii. Retention requires that an organization cease the retention or deletion of documents containing personal data unless there are legal or business justifications for the association of personal data with a specific individual. Removal should promptly occur once it is reasonably established that retention is no longer required.
- viii. Accountability requires that an organization be held responsible for adhering to actions taken to implement the principles. Comprising: (i) The organization is required to furnish clear and accessible information concerning its privacy policies and practices related to personal information it holds; (ii) additionally, organizations must provide contact information for inquiries related to their privacy policies and practices. (The Telecommunications, n.d.)

After analyzing the principles, Indonesia needs to elaborate more on transferring to another country or territory before exchanging individual information with another nation or domain. Further, Erlina Maria et al. (Sinaga & Putri, 2020) strengthened the point that four main aspects of the Personal Data Protection Law must be pointed out below:

- Data sovereignty and data safety;
- Data owner;
- Data users that need accurate data and well-verified;
- Cross-border data flow.

Related to Personal Data Transfer, Articles 55-56 of Law Number 27 of 2022 explain data transfer in the domestic (Article 55) and transfer to the territory of another country (Article 56). Particularly Article 56, the legislation mandates the allocation to a personal data controller. Paragraph 91) outlines that the Personal Data Controller is permitted to transfer personal data to another Personal Data Controller and/or processor located outside Indonesia in accordance with the provisions specified in the Law. Accordingly, paragraph (2) states that the Personal Data controller must verify that the country in which the personal data controller and/or processor is located provides a high level of protection or is equivalent to that of Indonesia. Clearly, the new law requires a more uniform application to enhance the competitiveness and security of the Indonesian Law on Personal Data Protection.

RECOMMENDATION AND CONCLUSION

In the context of ASEAN competition, Indonesia needs to prepare to enhance consumer protection for e-commerce activities by reinforcing the new law on personal data protection. Indonesia needs to take appropriate measures to facilitate the law and ensure its effective implementation. Consumers in the ASEAN countries will experience safety and robust protection.

The preceding explanation and analysis indicate that the ASEAN agreement on electronic commerce has been implemented in Indonesia, necessitating that other ASEAN members adhere to the thorough and detailed provisions of the Personal Data Protection Act. The ratification of the ASEAN Agreement on Electronic Commerce holds considerable significance for Indonesia, as it establishes a legal framework for collaboration in the intergovernmental e-commerce sectors within ASEAN. On the other hand, the ratification is expected to improve the competitiveness of the business industry at the ASEAN level. Personal Data Protection in Indonesia must be more comprehensive and reflect some crucial points that could be operationalized at the ASEAN Level to support the competition among ASEAN countries for e-commerce. Achieving a competitive, productive, dynamic ASEAN Economic Community Pillars necessary in e-commerce amongst member countries is urgent.

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