

PROCEDURE FOR RESOLVING CONSUMER DISPUTES THROUGH CONSUMER DISPUTE SETTLEMENT AGENCY (BPSK)

Maryanto

Universitas Islam Sultan Agung, email : maryanto00@yahoo.com

Lathifah Hanim

Universitas Islam Sultan Agung, email : lathifah.hanim@yahoo.co.id

Dini Amalia Fitri

Universitas Islam Sultan Agung, email : dinii.mudzakir@yahoo.com

ARTICLE INFO

Keywords:

Agency, Consumer, Dispute, Protection, Resolution.

ABSTRACT

The establishment of the Consumer Dispute Settlement Agency (here and after, we will use the acronym BPSK) is to protect consumers and entrepreneurs by designing a Consumer Protection system that contains legal certainty and transparency. The purpose of this study was to determine the procedure for resolving consumer disputes through BPSK. This research uses doctrinal and non-doctrinal approaches. The result of the research is that the procedure for resolving consumer disputes carried out by BPSK is through 2 (two) processes or paths that must be passed if consumers want to resolve consumer disputes with business actors, namely: Dispute Resolution outside the court, namely the process of making a complaint or claim for losses carried out by business actors to BPSK or Non-Governmental Consumer Protection Agency (LPKSM). From these complaints BPSK is obliged to issue a decision no later than 21 (twenty one) working days after the claim is received and Dispute Settlement Through the court, namely the process Consumers who feel aggrieved report to the authorities, namely to the police for follow-up as in the dispute resolution process in court. There are 3 (three) ways to settle consumer disputes, namely conciliation, arbitration and mediation.

A. INTRODUCTION

The issue of Consumer Protection has been rife lately. Many consumers feel disadvantaged by unscrupulous elements of business actors, so that Consumer Protection is very important. Consumer rights are often ignored by business actors so consumers feel disadvantaged. According to the law, consumers can raise this issue with BPSK. The establishment of BPSK is to protect consumers and entrepreneurs by designing a Consumer Protection system that contains legal certainty and transparency. BPSK is a special institution established and regulated in the Consumer Protection Act, whose main task is to resolve disputes/disputes between consumers and business actors. BPSK domiciled in the capital city of Regency/City Region functions to handle and resolve disputes between consumers and business actors outside the court.

Prior to BPSK and Act No. 8 of 1999 concerning Consumer Protection. Settlement of consumer disputes only through the agreement of the parties. If it continues, it will be resolved through the courts. The consumer advocacy agency that fought for consumer rights at that time was YLKI

(Indonesian Consumers Foundation), which was established on May 11, 1973. This movement in Indonesia was quite responsive to the situation, even predating the Revolution of the United Nations Economic and Social Council (ECOSOC) No. 211 of 1978 concerning Consumer Protection.¹

The increase in the national economy can result in the position of business actors and consumers becoming unbalanced, in this case consumers tend to be used as objects of business activities from business actors to reap the maximum profit through advertising tips, promotions, sales methods, and the application of standard agreements that are detrimental to consumers.²

Based on the background description above, the authors are interested in conducting research under the title of consumer dispute resolution procedures carried out by the Consumer Dispute Resolution Board.

B. RESEARCH METHODS

This study, using the concept of law, where law is positive norms in the national legal system, the research is doctrinal, that is, law is a manifestation of the symbolic meanings of social behavior as seen in their interactions. His research is non-doctrinal. Non-doctrinal legal research, there are 2 (two) approaches, namely qualitative. This research uses qualitative research.

This research is based on legal research conducted with a doctrinal and non-doctrinal approach. This research also bases on the concept of positivist legality which states that legal norms are identical with written norms and are made and promulgated by authorized state institutions.³

This study uses a doctrinal and non-doctrinal approach, so the sources and types of data include 2 (two) different sources, namely:

1. Secondary Data, The type of data used in the doctrinal approach is secondary data, when viewed in terms of the information provided, library materials can be divided into 3 (three) groups, namely Primary Legal Materials, Secondary Legal Materials, and Tertiary Legal Materials.
2. Primary Data, i.e. data obtained directly from the main sources in the form of views, thoughts, aspirations, actions, events and legal relationships and words.⁴ This type of data provides information or information directly about everything related to the object of research, which is obtained directly through the field in the form of words and actions by in-depth interviews (in-depth interview).

This research analysis was conducted in 2 (two) stages. The First Stage, which is based on a doctrinal approach, analyzes are carried out using qualitative normative analysis methods. The second stage, which is

1 Celina Tri Siwi Kristiyanti, *Hukum Perlindungan Konsumen*, Sinar Grafika, Jakarta, 2007, page.1.

2 General explanation of the Law of the Republic of Indonesia Number 8 of 1999 concerning Consumer Protection (State Agency of the Republic of Indonesia of 1999 Number 42)

3 Ronny Hanitoyo Soemitro, *Metodologi Penelitian Hukum*, Ghalia Indonesia, Jakarta, 1990, page. 32.

4 Lexy J. Moleong, *Metodologi Penelitian Kualitatif*, Remaja Rosdakarya Offset, Bandung, 1998, page.112.

based on an empirical approach, analyzes conducted using qualitative analysis which is carried out using an interactive analysis method (interactive model of analysis). The three stages are: Data Reduction, Data Presentation and Data Conclusion.

C. RESULT AND DISCUSSION

1. Procedure for Resolving Consumer Disputes through BPSK

Consumer Protection Law (UUPK) Article 1 number 2 of Act No. 8 of 1999 concerning Consumer Protection states that consumers are all users of goods and/or services available in the community, both for the benefit of themselves, families, other people and other living things and not to trade.

Classification of consumers, can be divided into 2 (two) groups, namely: First consumers who use goods/services for commercial purposes (intermediate consumers, intermediate buyers, derived buyers, consumer of industry market). Second, consumers who use goods/services for their own/family/non-commercial needs (ultimate consumer, ultimate buyer, and user, final consumer, consumer of the consumer market).

Consumers in the first group are also called intermediary consumers, while consumers in the second group are called end consumers. The difference between these two consumers is important in relation to consumer disputes, where consumer disputes basically arise in the end consumer and not the intermediary consumer.

Broadly speaking, consumer losses can be divided into 2 (two), namely: first, losses caused by the behavior of sellers who are irresponsibly harming consumers; secondly, consumer losses that occur due to unlawful actions by third parties so that consumers are ultimately harmed.⁵

Consumers are always in a weak position compared to producers or business actors. Consumers generally do not get complete information about the products they buy. This fact is often caused by the manufacturer's lack of transparency regarding the state of the products they offer.⁶ Business actors have more knowledge about information on the condition of the products they make. They are generally in a stronger position, both from an economic point of view, and of course also in a bargaining position.

Basically, no one wants disputes with other people, not least in business activities, especially between producers and consumers. If this happens, it will result in losses for the disputing parties who are in the right position or in the wrong position. However, disputes between them are sometimes unavoidable. This is due to misunderstandings, violations

5 Ahmad Ramli dalam Kurniawan Permasalahan dan Kendala Penyelesaian Sengketa Konsumen Melalui Badan Penyelesaian Sengketa Konsumen (BPSK), *Jurnal Dinamika Hukum*, Vol.12 No. 1 January 2012

6 NHT Siagin, *Hukum Konsumen: Perlindungan Konsumen dan Tanggung Jawab Produk*, Pana Rei, Jakarta, 2005, page.14

of the law, broken promises, conflicting interests, losses to one of the parties.

Article 23 of the UUPK states that if the factory business actor and/or distributor business actor refuses and/or does not respond and/or does not meet compensation for consumer demands, then the consumer is given the right to sue the business actor and settle disputes arising through the Dispute Settlement Agency Consumer (BPSK) or by filing a lawsuit to the judiciary in the consumer's place of residence.

BPSK is an agency that resolves consumer disputes through out-of-court methods. BPSK has a goal as an agency formed to carry out consumer protection efforts, especially regarding the regulation of the rights and obligations of consumers and business actors.⁷ As a protection agency, BPSK has the function of providing advice and consideration to the government in an effort to develop consumer protection in Indonesia.⁸

Article 45 of the UUPK states that:

- a. Any disadvantaged consumer can sue the business actor through an institution tasked with resolving disputes between consumers and business actors or through the courts within the general court environment.
- b. Settlement of consumer disputes can be reached through the court or outside the court based on the voluntary choice of the disputing party.
- c. Settlement of disputes outside the court referred to in paragraph (2) does not eliminate criminal liability as provided for in the Act⁹.
- d. If an effort to settle a consumer dispute resolution outside the court has been chosen, a lawsuit through the court can only be taken if the attempt is declared unsuccessful by one of the parties or by the parties to the dispute.

So the effort to resolve consumer disputes according to UUPK there are 2 (two) options, namely:

- a. Through non-litigation or through institutions tasked with resolving disputes between consumers and business actors (in this case BPSK), or
- b. Through litigation or through the courts in the general court environment.

The existence of the Consumer Dispute Settlement Body (BPSK) is regulated in UUPK Number 8 of 1999 Chapter XI Article 49 to Article 58. In Article 49 Paragraph (1) it is stated that the government established a consumer dispute body in Level II Regions for the resolution of consumer

7 Ahmad Miru dan Sutarman Yodo, *Hukum Perlindungan Konsumen*, Raja Grafindo Persada, Jakarta, 2010, page.195.

8 Act No. 8 of 1 concerning Consumer Protection

9 A Chuasanga, Ong Argo Victoria, Legal Principles Under Criminal Law in Indonesia and Thailand, *Jurnal Daulat Hukum*, Vol 2, No. 1, 2019

disputes outside the court. This body is a small court (Small Claim Court) which conducts trials by producing decisions quickly, simply and at a low cost in accordance with the principles of justice. It is called fast because it must provide a decision within a maximum of 21 working days (Article 55) and without an offer of appeal that can prolong the process of implementing the decision (Article 56 and Article 58). Simple because the settlement process can be carried out by the disputing parties themselves, and is cheap because the costs incurred to undergo the trial process are very light.

BPSK membership consists of elements of government, elements of consumers, and elements of business actors, each element represented by 3-5 people, who are appointed and dismissed by the Minister (Article 49 paragraph (3) and paragraph (5) UUPK). Further provisions regarding the establishment of BPSK are regulated in Presidential Decree of the Republic of Indonesia Number 90 Year 2001. The establishment of BPSK is regulated in Decree of the Minister of Industry and Trade of the Republic of Indonesia Number 605/MPP/8/2002 dated August 29, 2002 concerning Appointment of BPSK Members to the Makassar City Government, Palembang city, Surabaya city, Bandung city, Semarang city, Yogyakarta city and Medan City.

The rights and obligations of consumers and business actors are regulated in Act No. 8 of 1999 concerning Consumer Protection (UUPK). Consumer rights are regulated in Articles 4 to 7 of the UUPK, and more broadly on the consumer basis mentioned by J.F.Kennedy which consists of the right to security, the right to vote, the right to information, the right to be heard.¹⁰

Duties and authority of BPSK based on the provisions of Article 52 of the UUPK, among others, carry out the handling and settlement of consumer disputes, by means of mediation, arbitration and or conciliation. To follow up the provisions of the law. The Minister of Industry and Trade of the Republic of Indonesia has issued Decree No. 350/MPP/Kep/12/2001 concerning the Consumer Dispute Resolution Board. Settlement of consumer disputes by BPSK is resolved by means of conciliation or mediation or arbitration, which is carried out based on the choice and agreement of the parties concerned, and is not a gradual dispute resolution process (Article 4 of the Company Law).

The legal culture of the community includes factors that influence the importance of resolving business disputes out of court through mediation. Traditional culture that emphasizes community, kinship, harmony, *primus inter pares*, has encouraged dispute resolution outside the formal courts. Thus, a culture that emphasizes efficiency and effectiveness is equally strong in encouraging the resolution of business disputes without going through court.¹¹

10 Ahmadi Miru dan Sutarman Yodo, Op.Cit, page. 39

11 Erman Rajagukguk, *Budaya Hukum dan Penyelesaian Sengketa Perdata di Luar Pengadilan, Jurnal Magister Hukum*, Universitas Islam Indonesia, Yogyakarta, page.7

Article 3 Decree of the Minister of Industry and Trade Number 350/MPP/Kep/12/2001 concerning the implementation of the duties and authority of BPSK, the duties and authority of BPSK include:

- a. Carry out handling and resolution of consumer disputes by conciliation, mediation or arbitration.
- b. Providing consumer protection consultations.
- c. Monitor the inclusion of standard clauses.
- d. Report to the general investigator if there is a violation of the provisions in Act No. 8 of 1999 concerning Consumer Protection.
- e. Receive complaints both written and unwritten from consumers about violations of consumer protection.
- f. Conducting research and examining consumer protection disputes.
- g. Calling business actors who are alleged to have violated the consumer protection law.
- h. Summon and present witnesses, expert witnesses and/or anyone who is deemed aware of violations of Act No. 8 of 1999 concerning Consumer Protection.
- i. Ask for the help of investigators to present business actors, witnesses, expert witnesses or everyone as referred to in letter g and letter h, who are not willing to fulfill BPSK's summons.
- j. Obtain, examine and/or assess letters, documents and/or other evidence for investigation and/or examination.
- k. Decide and determine whether or not there is a loss on the part of the consumer.
- l. Notifying the decision to business actors who violate consumer protection.
- m. Imposing administrative sanctions on business actors violating the provisions of Act No. 8 of 1999 concerning Consumer Protection.

2. Flow of Dispute Resolution

Article 3 Decree of the Minister of Industry and Trade Number 350/MPP/KEP/12/2001 concerning the implementation of the Duties and Authorities of the Consumer Settlement Agency. Settlement of disputes outside the court (non-litigation) includes arbitration, mediation and conciliation.¹²

The flow of consumer dispute resolution with business actors - both public and private - is regulated in Act Number 8 of 1999. In this law it is stated that, resolving consumer problems is unique. The reason is, the disputing party can choose several judicial environments. The judicial environment includes, settlement in court and out of court. This is in accordance with Article 45 Paragraph (2) of the Consumer Protection Act (UUPK), which states that the settlement of a case can be carried out through the following methods.

- a. A peaceful way.

The peaceful way to resolve consumer disputes does not involve BPSK or the court. Between consumers and business actors

12 Article 3 Decree of the Minister of Industry and Trade Number 350/MPP/KEP/12/2001

solve it as a family. The settlement is independent of the provisions of Article 1851-1864 of the Civil Code. In the article there are rules of conditions, legal force, and binding peace (dading).

b. How to resolve disputes through court.

Consumers can also choose the settlement through the court. This effort must follow the rules in the general court. Even all the decisions are in the hands of assemblies that handle consumer and business actor disputes.

c. Settlement of cases through BPSK.

The third way is through BPSK. Of the many ways of resolving disputes outside the court, the consumer protection law only introduces three types, namely: arbitration, conciliation and mediation which are forms or methods of dispute resolution that are charged to the task of BPSK.¹³ It is in these ways that BPSK resolves consumer disputes between business actors and consumers

Any disadvantaged consumer can submit a consumer dispute resolution request to BPSK. Both in writing and verbally through the BPSK secretariat. The request can also be submitted by the heirs or their proxies if the consumer dies, is sick or is old. Immature or foreign (foreign national). Written requests received by BPSK are issued proof of receipt by the BPSK secretariat to the applicant. Requests submitted orally/unwritten are recorded by the BPSK secretariat in a format provided, and signed or stamped by the consumer or his heirs or their attorneys.

Article 16 Decree of the Minister of Industry and Trade of the Republic of Indonesia Number 350/MPP/Kep/12/2001 concerning the implementation of the Tasks and Authorities of BPSK, written requests for settlement of consumer disputes must contain correctly and completely regarding:

- a. The full name and address of the consumer, heir or proxy accompanied by proof of identity,
- b. Full name and address of the business actor.
- c. The goods or services complained of.
- d. Proof of acquisition (receipts, receipts and other proof documents).
- e. Description of the place, time and date the goods and services were obtained.
- f. Witnesses who are aware of the goods and services obtained.
- g. Photographs of goods and service implementation activities, if any.

The procedure is quite simple, consumers who dispute with business actors can directly come to the Provincial BPSK where they are located by bringing a dispute resolution request, filling out the complaint form and also the files/documents that support the complaint. Parties who litigate at BPSK are not charged a case fee or free. While the operational costs of BPSK are borne by the regional budget. Aside from

13 Ahmad Miru dan Sutarman Yogo, Op Cit, p.233

being free of charge, the procedure for consumer complaints is also quite easy, that is only carrying evidence or proof of purchase/payment and identity card (KTP). Complaint forms are provided at the BPSK secretariat. The BPSK will then summon the disputing parties to be brought together in the pre-trial session.

In the event that an application is accepted, proceed with the trial. The Chairperson of BPSK calls the business actor in writing accompanied by a photocopy of the request for resolution of consumer disputes, not later than 3 (three) working days after the request for dispute resolution is received correctly and completely. The summons is stated clearly about the day, hour and place of the trial and the obligation of the business actor to provide a response letter to the consumer dispute resolution and submitted on the first trial day, which is carried out no later than the 7th (7) working day from the receipt of the application Consumer dispute resolution by BPSK. The Assembly convenes on the day, date and time that has been set and during the hearing the Assembly is obliged to maintain orderliness of the proceedings of the trial.

From this pre-trial, the next step can be determined whether consumers and business actors can still be reconciled or must take the settlement steps that have been determined, among others, by conciliation, mediation or arbitration. Consumer dispute resolution is carried out in the form of an agreement made in a written agreement signed by the parties to the dispute, which is confirmed in the form of a BPSK decision (SK No. 350/MPP/Kep/12/2001 concerning the Consumer Dispute Settlement Body Article 6). Decisions issued by BPSK can be at peace, the claim is rejected, or the claim is granted.

Following is the flow of dispute resolution through BPSK.

a. First Stage — Filing a Lawsuit

Filing a claim can be done by a consumer or a group of consumers. The request was submitted to the nearest BPSK from the plaintiff's residence. BPSK locations are usually in the district or municipal capital.

If a consumer cannot submit an application on his own, he is permitted to send his proxy. Likewise, when a plaintiff dies, is sick, or is elderly, a complaint can be made by the heirs concerned. The method for filing the claim may be oral or written. Provided all of them meet the requirements of the law.

After determining the representatives, then written requests are sent or submitted to the BPSK secretariat. As proof of receipt, BPSK usually provides a written receipt. Meanwhile, specifically for oral requests, the secretariat will record the claimants' submissions on a form. On the form there will be a date and registration number. If the application file is incomplete or exceeds the regulation of the Ministry of Industry and Trade Number 350/MPP/Kep/12/2001. In this case, BPSK has the right to refuse the application. This was also done when the request submitted was not under the authority of

BPSK. If the application meets the criteria, BPSK is required to summon the defendant (business actor). The summons was in the form of a written letter accompanied by a lawsuit from the consumer. The summons process takes a maximum of 3 (three) days after the applicant's entry documents are approved by BPSK.

b. Second Stage — Choosing a Consumer Dispute Resolution Method

The next stage - after the defendant fulfilled the summons - both parties determine the method of case resolution. Both methods must be agreed upon. The following methods can be chosen.

1) Mediation.

This process is used to resolve consumer disputes in court through BPSK. BPSK functions only as an advisor. While solving the problem is left to the disputing parties. Mediation is the process of resolving consumer disputes outside the court with the mediation of BPSK as an advisor and the settlement is left to the parties. In mediation proceedings, the panel in resolving disputes by mediation, has the task of: calling on consumers and business actors in dispute, calling witnesses and expert witnesses when needed, providing a forum for consumers and business actors in dispute, actively reconciling consumers and business actors the disputes, actively provide advice or advice on the resolution of consumer disputes in accordance with the laws and regulations in the field of consumer protection. Procedures for resolving consumer disputes by means of mediation are: the assembly submits fully the process of dispute resolution of consumers and business actors concerned, both regarding the form and amount of compensation, the assembly acts actively as a mediator by providing advice, instructions, suggestions and other efforts in resolving disputes, assemblies accept the results of deliberations between consumers and business actors and issue power.

2) Conciliation.

The conciliation method is used in resolving consumer problems outside the court. The Assembly has the duty to reconcile the disputing parties. However, the assembly is only as a conciliator (passive). Meanwhile, the results of the decision were handed over to the plaintiff and the defendant. Conciliation is the process of resolving consumer disputes outside the court with the mediation of BPSK to bring together the parties to the dispute and the settlement is left to the parties. The Assembly in submitting consumer disputes by way of conciliation has the following tasks: Calling the consumers and business actors concerned, summoning witnesses and expert witnesses if necessary and providing a forum for consumers and business actors, concerning legislation in the field of consumer protection. The procedures for resolving consumer disputes by way of conciliation are: the Assembly fully submits the dispute resolution

process to the consumers and business actors concerned, both regarding the form and amount of compensation, the Assembly acts as a conciliator, the assembly accepts the results of consumer and business actors deliberations and issues decisions. The results of consumer dispute resolution by conciliation or mediation are made in a written agreement signed by the consumer and the business actor. The written agreement is strengthened by the decision of the assembly signed by the chairman and members of the assembly. Likewise, the results of consumer settlements by arbitration are made in the form of a court decision signed by the chairman and members of the assembly. The verdict of the assembly is the decision of BPSK.

3) Arbitration.

In the arbitration method, the assemblies are active in resolving the case of the party to the dispute. Specifically for arbitration, the resolution of the problem is carried out through the district court and the Supreme Court's cassation. Therefore, the final decision rests with the Supreme Court — the complaint is considered finished at this stage. Article 1 number 11 Decree of the Minister of Industry and Trade of the Republic of Indonesia Number 350/MPP/Kep/12/2001 concerning the Implementation of BPSK's Tasks and Weights. Arbitration is the process of settling consumer disputes outside the court in which the disputing parties fully submit the dispute resolution to BPSK. In settling consumer disputes by arbitration, the parties choose arbitrators from BPSK members who come from business actors, government elements and consumers as members of the assembly. The arbitrator chosen by the parties then chooses a third arbitrator from BPSK members who come from government elements as the chair of the assembly. In the trial must provide instructions to consumers and business actors concerned. With the permission of the chair of the assembly, the consumer and business actor concerned can study all files relating to the trial and make the necessary citations. On the day of trial 1 (first), the chairman of the assembly must reconcile the two parties to the dispute, and if peace is not reached, the trial begins by reading the contents of the consumer's lawsuit and the business entity's response letter. The chairman of the assembly provides the opportunity for consumers and disputing business actors to explain the disputed matters. On the day of trial 1 (first) before the business actor gives the answer, the consumer can withdraw the claim by making a statement. In the event that the claim is withdrawn by the consumer, then in the first trial the panel is obliged to announce that the suit is withdrawn. If in the process of resolving a consumer dispute a peace occurs between the consumer and the business actor in dispute, the assembly makes a decision in the form of a settlement. If the business actor and

consumer are not present at trial 1 (first), the panel will give consumers and business actors the last chance to be present at trial 2 (second) by bringing the necessary evidence. The 2nd (second) hearing shall be held no later than 5 (five) working days from the first (1) hearing day and notified by a summons to consumers and business actors by the BPSK secretariat. If at the second (second) trial the consumer is absent, the lawsuit is declared null and void by law, otherwise if the business actor is absent, the consumer's claim is granted by the assembly without the presence of the business actor.

c. Stage Three — Consumer and Business Actor Dispute Decisions

Decisions made by the BPSK assembly consist of the following 2 (two) types:

- 1) BPSK's decision for a method of settlement by consolidation and mediation. This decision contains a peace agreement without administrative sanctions. The agreement was agreed and signed by the disputing parties.
- 2) BPSK's decision for the arbitration method. In contrast to conciliation and mediation, arbitration includes civil case decisions. Each decision contains a case sitting accompanied by legal considerations.

Article 40 Decree of the Minister of Industry and Trade of the Republic of Indonesia Number 350/MPP/Kep/12/2001 concerning the Implementation of BPSK's Duties and Powers, BPSK's decision can take the form of: peace, a lawsuit is rejected and a lawsuit is granted.

Decisions in the case of a lawsuit are granted, then the verdict is determined obligations that must be done by business actors. The obligation is in the form of fulfillment: compensation and administrative sanctions in the form of determining compensation at most IDR 200,000,000, (two hundred million rupiah), as stated in Article 14 of the Decree of the Minister of Industry and Trade of the Republic of Indonesia Number 350/MPP/Kep/12/2001 on the Implementation of Duties and Powers of BPSK.

The BPSK decision is a final decision and has permanent legal force. With regard to BPSK's actions, it is requested to determine the execution by BPSK to the District Court at the place where the consumers are disadvantaged. Execution or execution already implies that the defeated party does not want to obey the decision voluntarily, so the decision must be forced on him with the help of legal force. Determination of execution is also regulated in Article 7 of Perma Number 1 of 2006 concerning Procedures for Filing Objection of BPSK Decisions, states that consumers submit requests for execution or decisions of BPSK that are not submitted to the District Court in the place of the relevant legal jurisdiction of consumers or in the jurisdiction of the BPSK issue a decision. The request for execution of the BPSK decision which has been

examined through the objection procedure is determined by the District Court which decides the case of the objection concerned.

The District Court must issue a verdict on the truth within 21 (twenty one) days from the receipt of the objection. With respect to the decision of the District Court, the parties can submit a cassation to the Supreme Court at the latest 14 (fourteen) days. The Supreme Court must issue a decision no later than 30 (thirty) days after receiving the appeal.

Although each type of decision has different results, BPSK must prioritize deliberations to reach consensus. If consensus is not reached, the next step is to take the most votes. That too must be based on the agreement of the disputing parties. Decisions that are obtained at a minimum must create a deterrent effect for business actors so they want to be responsible for consumer losses. Also willing to compensate for contamination of traded goods. This rule also applies to products in the form of services.

The compensation for damage or pollution in question, includes the following matters.

- a. The form of compensation as stated in the consumer dispute decision can be in the form of refunds. It can also take the form of replacing goods and/or services with the same value and equivalent treatment.
- b. Compensation can also be in the form of compensation based on the rules or laws in force at the time.
- c. There is also compensation intended for physical losses resulting in loss of work, accidents, or a lifetime or temporary income.
- d. Providing administrative sanctions in the form of maximum compensation of Rp 200,000,000 (two hundred million rupiah). This sanction is only imposed if the disputing party uses the arbitration method in the settlement of the case. Or it can also be applied when the business actor does not carry out compensation in the form of compensation, refunds, goods or services of value, and health care.
- e. Administrative sanctions are also applied to violators of the Consumer Protection Act which results in losses due to advertising production activities. Usually, this violation is committed by an advertising company.
- f. Administrative sanctions are given to business actors who are unable to provide after sales facilities. Generally, in the form of spare parts, maintenance, and warranty-according to the initial agreement with the consumer.

The rule also applies to business operators who sell services. In fact, this civil loss claim can have an impact on criminal prosecution through the process of investigation and proof of cases. Especially with the existence of an element of error that is intentionally made by business actors.

The thing to remember about compensation is the nature of the damages. If the loss is real, BPSK will grant the claimant's request. In

contrast, the Consumer Protection Act does not want or permit BPSK to grant immaterial damages. In the Consumer Protection Act it is explained that, the lawsuit includes the loss of opportunities for profit, pleasure, or good name. So, whatever the reason, the submission must be real so that BPSK can impose appropriate sanctions on business actors.

In providing final decisions as well as sanctions on consumer disputes, some of these provisions must be obeyed. That is:

- a. Decisions must be issued by the assembly no later than 21 working days since the lawsuit is entered and accepted by BPSK.
- b. After notification of the BPSK decision, no later than 7 days from the reading, the disputing party must provide a statement of accepting or rejecting. If one refuses, then the appeal is no later than 14 days; starting with the announcement of the decision.
- c. Decisions that are rejected or not carried out can be considered criminalization. In this matter, BPSK has the right to ask the help of investigators to bring the case to the district court. That is, the court decided based on the Consumer Protection Act Article 58 Paragraph (2).
- d. If the decision is accepted by both parties, the business actor is given 7 days to execute the decision. Complaints are considered complete when the business actor succeeds in carrying out his duties properly.
- e. For BPSK decisions that are not disputed by business actors, fiat must be sought immediately.
- f. At the latest 5 days after filing an objection, the business actor does not go through with the verdict, BPSK submits the case file to the investigator.

Even though they have the authority in deciding disputes between consumers and business actors, there are not many consumers who want to be caused by the substance of the regulation, weaknesses and contradictions so that BPSK cannot play a large role in resolving consumer disputes.

In resolving consumer cases, BPSK must hold three main principles. This is in line with the opinion of S.Sothi Rachagan, Vice-Chancellor of Values University, who said that managing a consumer dispute resolution institution cannot be separated from the following principles:

- a. The principle of accessibility. The principle of accessibility is an effort to disseminate institutions that function to resolve consumer dispute cases. This principle ensures that the institution is accessible to the general public. The scope of the principle of accessibility, which is an easy and simple procedure, affordable cost, flexible, comprehensive proof, can be accessed directly, and is available anywhere.
- b. The principle of fairness. The purpose of this principle, namely to seek dispute resolution is independent with justice that takes precedence. In applying the principle of fairness, legal certainty is

ignored. Even so, the settlement of consumer cases must meet public accountability requirements.

- c. Effective principle. The effective principle requires that a dispute resolution agency be limited to the scope of the problem - including the complexity and value of the claim. So, all case files that enter BPSK must be completed quickly — without neglecting the quality of the settlement.

The distinct advantage that BPSK has as a Consumer Justice institution is that it does not require a long time in the procedures or decisions issued and is cheap because the court fees charged are very light and can be affordable by consumers.¹⁴

D. CONCLUSION

The procedure for resolving consumer disputes carried out by the Consumer Dispute Settlement Agency is initiated from a request to BPSK. Every aggrieved consumer can submit a consumer dispute resolution request to BPSK, After that the BPSK chairman summons the business actor in writing accompanied by a copy of the consumer dispute settlement request, not later than 3 (three) working days after the request for dispute resolution is received correctly and completely . The summons clearly states the day, hour and place of the trial and the obligation of the business actor to provide a response letter to the consumer dispute resolution and is submitted on the first trial day, which is carried out no later than the 7th (7) working day from the receipt of the application Consumer dispute resolution by BPSK. The Assembly convenes on the day, date and time that has been determined, and in the hearing the Assembly is obliged to maintain orderliness of the proceedings of the trial. There are 3 (three) ways to resolve consumer disputes, namely conciliation, arbitration and mediation.

BIBLIOGRAPHY

BOOKS

- Abdulrasyid, Priyatna, 2002, *Arbitrase dan Alternatif Penyelesaian Sengketa Suatu Pengantar*, Fikahati Aneska, Jakarta;
- Ahmadi Miru dan Suratman Yodo, 2005, *Hukum Perlindungan Konsumen*, Raja Wali, Jakarta;
- Aries Kurniawan, 2008, *Peranan Badan Penyelesaian Sengketa Konsumen Dalam Penyelesaian Sengketa Konsumen*, Kompas 6 August 2008;
- Celina Tri Siwi, 2008, *Hukum Perlinđuugan Konsumen*, Sinar Grafika, Jakarta;

14 Yusuh Shofie, *Penyelesaian Sengketa Konsumen Menurut Undang-Undang Perlindungan Konsumen Teori dan Praktek Penegakan Hukum*, Citra Aditya Bakti, Bandung, 2003, page. 17.

Endang Sri Wahyuni, 2003, *Aspek Hukum Setifikasi dan Keterkaitannya Dengan Perlindungan Konsumen*, Citra Aditya Bakti, Bandung;

Gunawan Wijaya dan Ahmad Yani, 2003, *Hukum Tentang Perlindungan Konsumen*, Gramedia Pustaka Utama, Jakarta;

Nasution Az, 2002, *Hukum Perlindungan Konsumen Satu*, Diadit Media, Jakarta;

Ronny Hanitiyo Soemitro, 1990, *Metodologi Penelitian Hukum*, Ghalia Indonesia, Jakarta;

Setiadi Nugroho, 2010, *Perilaku Konsumen*, Kecana Prenada Media Group, Jakarta;

Zulham, 2013, *Hukum Perlindungan Konsumen*, Prenada Media Group, Jakarta;

JOURNAL

A Chuasanga, Ong Argo Victoria, Legal Principles Under Criminal Law in Indonesia and Thailand, *Jurnal Daulat Hukum*, Vol 2, No 1, 2019;

Ahmad Ramli in Kurniawan, Permasalahan dan Kendala Penyelesaian Sengketa Konsumen Melalui Badan Penyelesaian Sengketa Konsumen (BPSK), *Jurnal Dinamika Hukum*, Vol.12th No. 1st, January, 2012;

Erman Rajagukguk, Budaya Hukum dan Penyelesaian Sengketa Perdata di Luar Pengadilan, *Jurnal Magister Hukum*, Universitas Islam Indonesia, Yogyakarta;

REGULATION

1945 Constitution of the Republic of Indonesia

Act No. 10 of 1998 concerning Banking

Act No. 23 of 1999 concerning Bank Indonesia

Act No. 8 of 1999 concerning Consumer Protection

Act No.5 of 1999 concerning the Prohibition of Monopolistic Practices and Unfair Business Competition

Civil Code.