Analysis Of Dispute Resolution With Arbitration Measures Based On Law N0. 30 Year 1999

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Info Articles
Article History
Received : 2024-08-17
Revised: 2024-08-19
Published: 2024-09-30

Keywords:
arbitration, dispute, law

Abstract
Dispute resolution is one of the important aspects in various legal relationships, whether in the field of business, contracts, or personal relationships. Law No. 30/1999 on Arbitration and Alternative Dispute Resolution provides a clear legal framework for resolving disputes through arbitration. Arbitration offers various advantages such as a fast and cost-effective process, binding results, so that it is increasingly in demand as an alternative to dispute resolution compared to litigation in court. This analysis aims to explore and explain the steps of dispute resolution through arbitration starting from the submission of a request for arbitration, the appointment of arbitrators, to the enforcement of arbitral awards. By understanding these steps, it is expected that the parties involved in the dispute can make a better decision on the appropriate settlement method.

I. INTRODUCTION

Arbitration for Dispute Resolution in Indonesia is governed by Law No. 30 of 1999, which provides the legal framework for this process. Arbitration is considered a faster and more effective method compared to court litigation (Vahzrianur & Siswajanthy, 2024). With its flexible procedures and relatively affordable costs, arbitration has attracted many parties seeking to resolve disputes without becoming entangled in lengthy and complex court processes (Prasetya, 2022).

The first step in the arbitration process is the submission of an arbitration request. The aggrieved party must file this request with the chosen arbitration institution, accompanied by relevant supporting documents. This request typically includes information about the parties, the subject of the dispute, and the legal basis for the claim. It is important to include an arbitration clause in the contract signed by the parties, as this forms the legal foundation for submitting the arbitration (Situmorang, 2020).

Once the request is accepted, the next step is the appointment of the arbitrator. The parties involved in the dispute can agree to select one or more arbitrators to resolve the conflict. If the parties cannot come to an agreement, the arbitration institution may appoint the arbitrator(s) in accordance with the applicable rules. Arbitrators must have sufficient expertise and competence to ensure that the resolution process is conducted fairly and objectively.

After the arbitrator(s) are appointed, the arbitration proceedings begin. This process is typically more informal than court hearings, providing flexibility for the parties to present evidence and arguments. The arbitrator acts as a moderator to ensure that each party has an equal opportunity to present their case. This stage may also involve mediation and negotiation, which can help the parties reach an agreement before a final decision is made.

After hearing all the arguments and reviewing the evidence, the arbitrator will issue a ruling. This decision is final and binding on both parties, based on the principles outlined in Law No. 30 of 1999. The arbitrator is responsible for providing a clear justification for the decision so that it can be understood by all parties. This is crucial in maintaining trust in the arbitration process (Riza & Abduh, 2019).

Although arbitration offers numerous advantages, there are some challenges in its implementation. One of these is the lack of public understanding of arbitration procedures, which can lead to uncertainty. Additionally, there can be disputes over the enforcement of arbitration decisions, especially when one of the parties is uncooperative. Therefore, strong legal enforcement and awareness of the importance of arbitration are necessary.

Overall, this analysis shows that arbitration is an effective method for dispute resolution in Indonesia, as long as all parties understand the procedures and steps involved. By utilizing arbitration optimally, the parties can achieve a satisfactory resolution and avoid the negative consequences of prolonged litigation. This underscores the need for education and outreach regarding arbitration to increase its use in dispute resolution.

II. RESEARCH METHODS

This research employs the normative legal research method (Djulaeka & Devi Rahayu, 2020). The selection of this methodology is based on legal research that utilizes secondary data, which is obtained from literature sources. The secondary data collected from books serves as the source of data used by the author for this normative legal research.

III. RESULTS AND DISCUSSION

A. Arbitration

Based on Article 1 paragraph (1) of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (Law 30/1999), arbitration is a method of resolving civil disputes outside the general court system, based on a written arbitration agreement made by the disputing parties (Sari, 2019). When discussing arbitration as a method of dispute resolution, it is important to understand the subject matter of arbitration. The subject matter of arbitration refers to matters that may be debated and resolved through the arbitration process. Although arbitration is an alternative method of dispute resolution outside the courts, not every dispute can be resolved through arbitration. Only certain disputes that meet specific criteria can be subject to arbitration (Felina et al., 2023).

According to Article 5 of Law 30/1999, issues that can be resolved through arbitration are limited to "disputes in the field of trade and concerning rights that, according to law and regulations, are fully owned by the disputing parties." Although this article does not provide detailed explanations about the field of trade, the explanation in Article 66 of Law 30/1999 expands it to include various activities such as industrial investment, finance, commerce, banking, and intellectual property rights. Additionally, the article also emphasizes that issues that cannot be resolved through arbitration are those that, according to law, cannot be settled through peaceful means (Silviasari, 2020).

Arbitration is part of Alternative Dispute Resolution (ADR). The primary measure of "Alternative" refers to the general understanding that alternative means "other than or outside of the courts." However, there are differing views that argue that ADR does not include arbitration. They contend that arbitration is an independent dispute resolution mechanism (sui generis), not a court or an alternative option, but rather a standalone institution that renders decisions through an adjudication process (Mantili, 2021).

Alternative dispute resolution processes outside the courts offer several advantages compared to litigation. These advantages include: arbitrators appointed by the parties are experts in the relevant field, thus they better understand the issues in dispute. This specialization plays an important role in their expertise, and their selection guarantees trust. Moreover, arbitration also maintains confidentiality as it is private in nature (Tampubolon, 2019).

Dispute resolution through arbitration offers distinct advantages. First, the process is faster than litigation. The time set for the selection of arbitrators and the resolution of disputes, whether agreed upon by the parties or stipulated by institutional arbitration rules, is binding. This provides certainty for both the arbitrators and the parties involved. Second, the court-based dispute resolution mechanism tends to confront the parties directly (adversarial). In contrast, arbitration focuses more on preserving future working relationships (Mangei, 2020).

In both theory and practice, dispute resolution through arbitration can be categorized into ad hoc arbitration and institutional arbitration, which are two distinct types. Ad hoc arbitration is incidental and not tied to any institution. It is created to handle a specific case, and its authority applies only once (eenmalig). The parties independently select and determine the arbitrator based on their mutual agreement. On the other hand, institutional arbitration is permanent and conducted under the supervision of a permanent institution (permanent arbitral body). The jurisdiction of institutional arbitration can be international, national, or regional in scope (Hombokau, 2024).

B. Steps For Dispute Resolution In Law No. 30 Of 1999

This is outlined in Article 6 paragraphs 1-9 (Baharuddin, 2024).

1) Civil disputes or differences of opinion may be resolved by the parties through

alternative dispute resolution based on good faith, setting aside litigation in the District Court.

2) The resolution of disputes or differences of opinion through alternative dispute resolution as referred to in paragraph (1) is to be completed in a direct meeting between the parties within a maximum of 14 (fourteen) days, and the result must be documented in a written agreement.
3) If the disputes or differences of opinion as referred to in paragraph (2) cannot be resolved, then by written agreement of the parties, the disputes or differences of opinion will be resolved with the assistance of one or more expert advisors or through a mediator.
4) If the parties fail to reach an agreement within a maximum of 14 (fourteen) days with the assistance of one or more expert advisors or through a mediator, they may contact an arbitration institution or alternative dispute resolution institution to appoint a mediator.
5) After the appointment of a mediator by the arbitration institution or alternative dispute resolution institution, mediation efforts must commence within a maximum of 7 (seven) days.
6) The dispute resolution efforts or differences of opinion through the mediator as referred to in paragraph (5) must uphold confidentiality and should reach a written agreement signed by all parties involved within a maximum of 30 (thirty) days.
7) The written agreement for dispute resolution or differences of opinion is final and binding on the parties to be carried out in good faith and must be registered with the District Court within a maximum of 30 (thirty) days from the date of signing.
8) The written agreement for dispute resolution or differences of opinion as referred to in paragraph (7) must be fully implemented within a maximum of 30 (thirty) days from the registration.
9) If reconciliation efforts as referred to in paragraphs (1) to (6) cannot be achieved, then the parties may, by written agreement, submit their resolution efforts through an arbitration institution or ad hoc arbitration.

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Arbitration is a way of resolving civil disputes that is not conducted in a public court. This method is based on an arbitration agreement signed in writing by the parties to the dispute. Dispute resolution through arbitration has several advantages over courts, one of which is the relatively faster process. The time set for arbitrator selection and dispute resolution, whether agreed by both parties or governed by institutional arbitration rules, is binding. This gives certainty to the deadline, and the aggrieved party can file the relevant claim. In addition, unlike courts where the parties face each other (adversarial), arbitration emphasizes the importance of maintaining long-term business relationships. This is regulated in Law No. 30/1999 on Arbitration, specifically in Article 6 paragraphs 1 to 9, which regulates the manner of dispute resolution through arbitration.

B. Suggestion

Arbitration presents a viable alternative for resolving civil disputes outside the conventional court system, offering several advantages such as expedited processes and the ability to maintain long-term business relationships. Given these benefits, parties involved in disputes should consider incorporating arbitration clauses in their contracts to ensure a more efficient and amicable resolution mechanism. Furthermore, it is crucial for stakeholders to be aware of the provisions outlined in Law No. 30 of 1999 on Arbitration, particularly Articles 6, which detail the arbitration process. By doing so, parties can make informed decisions and potentially avoid the adversarial nature of litigation, fostering a more collaborative environment for dispute resolution.

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