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## Legal Analysis of Consumer Protection: Certainty Regarding Objections to Consumer Dispute Settlement Agency Arbitration Award

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**Abstract:** Consumer protection laws serve as a vital safeguard for citizens engaged in transactions involving products and services. The Consumer Dispute Settlement Agency plays an essential role in addressing consumer issues through arbitration, conciliation, or mediation. Among these methods, arbitration is particularly effective due to its final and binding nature. However, a significant limitation arises while Consumer Dispute Settlement Agency's arbitration decisions are deemed final and binding within the agency, they are subject to appeal in district courts, leading to complications in enforcement and legal uncertainty. This research aims to explore the implementation of consumer protection laws and the legal certainty surrounding the resolution of consumer disputes through Consumer Dispute Settlement Agency. Employing a normative research methodology, this study examines the challenges posed by appeals against Consumer Dispute Settlement Agency's arbitration decisions, particularly when the legal framework supporting these decisions becomes outdated or inadequate. To enhance legal certainty in consumer dispute resolution, a revision of the consumer protection law is necessary. Such revisions could streamline the arbitration process and reinforce the binding nature of Consumer Dispute Settlement Agency's decisions, ultimately strengthening consumer rights and ensuring more effective dispute resolution.

**Keyword:** Consumer Protection, Legal Certainty, Arbitration, Consumer Dispute Settlement Agency.

### INTRODUCTION

Indonesia is a legal state, implying that all facets of national and state life are subject to legal regulations. As a duty bearer, the state must carry out national development aimed at realizing the precepts contained in Pancasila, one of which is the achievement of a wealthy and just society founded on social justice in material and spiritual elements in the period of economic democracy as outlined in Pancasila and the Republic of Indonesia's 1945 Constitution. In accordance with Article 27 (2) and Article 28 of the 1945 Constitution, which in essence, among others, determine that every citizen is entitled to a respectable standard of living, has

the freedom to express their thoughts. These provisions can mean that all citizens are entitled to protection for various matters relating to livelihood, including health, security, safety and so on.

Consumer protection, both in material and formal terms, is increasingly considered very important along with the advancement of science and technology which serves as the main driver in increasing efficiency and productivity of manufacturers when creating goods or services. Customers are the ones who experience the effects of efforts to accomplish these two goals, both directly and indirectly. Therefore, Attempts to adequately safeguard the interests of consumers are crucial and urgent to find solutions, Considering the intricacy of consumer protection problems, particularly in Indonesia, especially ahead of the upcoming free trade era. Every individual, either individually or in a group, will at some time become a consumer of certain goods or services. This situation shows that consumers have various weaknesses that require universal legal protection. Given that consumer protection is generally weaker than the stronger position of producers in every aspects, The topic of consumer protection will always be pertinent and worth looking into further (Kristiyanti, 2008).

Globalization requires the state to play an active role to adapt to the digital era and be globally open so as to be able to manufacture a range of products and/or services with a market worth that can enhance the well-being of many individuals while also gaining assurance over products and/or services acquired through commerce, whether online or offline, without endangering consumers. When talking about law, we understand that law is made to ensure justice and certainty, and is expected to function to maintain order in society in realizing the purpose of life or achieving its goals. Law is a means to maintain human existence in society. A healthy economic system often depends on an orderly trading system, so society needs clear and definite rules to ensure the smooth running of the trade.

The consumer rights recognized today have their origins in the development of consumer rights affirmed in UN Resolution No. 39/248 of 1985 on Consumer Protection. In Indonesia, the Law Number 8 of 1999 concerning on Consumer Protection (hereinafter referred to as "Costumer Protection Law") makes these rights a reality. The resolution, titled Guidelines for Consumer Protection, generates several aspects of consumer interests that require protection. These include safeguarding against health and safety hazards, advancing and defending the financial and social interests of consumers, providing them with enough information to make educated decisions, educating consumers, and having efficient redress channels available. In addition, consumers also have the freedom to establish consumer organizations or similar groups and give them a platform to express their views during the process of making decisions that affect the interests of consumers. In general, the right to safety, the right to information, the ability to make a choice, and the right to be heard are the four fundamental consumer rights that are acknowledged.

Every individual who uses products and/or services in the community is a customer, and while consumer protection is a right of all citizens, the government is obliged in its role as a regulator to protect all citizens. In connection with the above, Costumer Protection Law has been passed. This positive law is based on balance, security, benefits, justice and consumer safety, and legal certainty. When two or more legal subjects have a relationship in which one party's rights and obligations are bound by the rights and obligations of the other, consumers and business actors are related among themselves (Soeroso, 2020). Legal relationships have conditions that must be met, namely based on a legal basis and legal events occur.

Problems arising from transactional activities or business activities need to be handled properly, the state must use its function as a regulator and law enforcer in a fair manner. The subject of consumer protection law may pursue consumer dispute resolution through non-litigation, also referred to as court and out-of-court, or litigation. The preference for alternative dispute resolution stems from the fact that conciliation, mediation, and negotiation are

considered to produce a settlement with a win-win solution output. This also makes it easier for judicial institutions to handle the large number of cases registered with the court, for example, in every civil lawsuit, the parties are required to make mediation efforts first. Arbitration is often the first and foremost choice in problems faced by business actors, especially business to business actors who have an equal position. Arbitration is one of the options in out-of-court dispute resolution where the parties are customers and business players, despite the fact that their positions are not equal, arbitration has good regulations that make it chosen as a dispute resolution method by legal subjects in consumer protection law.

Arbitration institutions have advantages and advantages over judicial institutions, including the guarantee of confidentiality in dispute resolution, delays due to prolonged administrative processes avoidable, Each party may select arbitrators who, in their opinion, are competent and honest in the area of dispute; the parties may choose the law to be applied in the dispute resolution process, including the location of the arbitration; and the arbitration award is a final and binding ruling of the parties that may be implemented immediately or through straightforward procedures. The effectiveness of the use of arbitration can be summarized as follows (Soemartono, 2006):

- a. It is faster, because the decision is final and binding (there are no other legal remedies such as appeal, cassation, or judicial review), so it saves energy, time and money;
- b. Arbitrators or assemblies of experts in their fields, in dispute resolution in arbitration provide experts who can be selected by the parties themselves in certain fields who master the disputed issues, so that the results (arbitration awards) can be accounted for;
- c. Confidentiality in dispute resolution through arbitrase is guaranteed because the examination process and decisions are not open to the public, this is an option for the parties because the interests of business activities are not affected.

Regarding consumer protection, alternative dispute resolution is also the main option in resolving consumer protection disputes, this is stated in the Costumer Protection Law.

Costumer Protection Law has several components to support consumer protection, includes government-recognized and registered non-governmental groups in terms of having activities to handle consumer protection, Consumer Dispute Settlement Agency are bodies given the task that having the power to manage and settle conflicts between companies and customers, and National Consumer Protection Agency are bodies given the task and authority to support initiatives aimed at creating consumer protection. The above institutions are anticipated to be capable of managing disputes between consumers and business actors that are increasingly prevalent, even though the Costumer Protection Law is no longer relevant to the current situation where consumers are largely turning to e-commerce (Kusumatrisna et al., 2023). The more the national economy develops, the more legal events that occur, therefore it is necessary to regulate a clear, non-overlapping legal harmony, and ensure legal certainty without harming the value of justice for justice seekers.

According to Article 52 of the Costumer Protection Law, Consumer Dispute Settlement Agency is tasked with a number of responsibilities, including managing and resolving consumer disputes via arbitration, conciliation, or mediation. The process of mediation involves the disputing parties communicating with one another in order to reach a consensus with the mediator's help. Conciliation is the peaceful resolution of conflicts outside of court with the involvement of a third party (the conciliator is more active than the mediator), what distinguishes it from mediation is the active participation of third parties in trying to get the parties to resolve the conflict. Arbitration is a method of settling a disagreement outside of the public courts by use of a written arbitration agreement between the disputing parties. Another definition of arbitration is the procedure by which a panel settles consumer disputes outside of court by rendering a panel ruling following conciliation and mediation.

The weakness of legal certainty and the absence of harmony in the applicable regulations are the main reasons for the public's limited comprehension of alternative dispute resolution, especially arbitration through Consumer Dispute Settlement Agency. Based on Article 54 paragraph (3) of Consumer Protection Law, it is stated that Consumer Dispute Settlement Agency's decision is final and binding. However, in Article 56 paragraph (2), it is stated that the relevant parties may file an objection to the Court against the arbitration decision rendered by Consumer Dispute Settlement Agency. These two articles give rise to different interpretations, especially regarding the legitimacy of Consumer Dispute Settlement Agency arbitration awards (Rimanda, 2019). Since the enactment of the Consumer Protection Law and the establishment of the Consumer Dispute Settlement Agency, there has been much debate regarding the procedure for objecting to Consumer Dispute Settlement Agency arbitration awards to the court and what the legal basis is.

The Republic of Indonesia's Supreme Court Regulation No. 01/2006, published in 2006, addressed the process for objecting to consumer dispute settlement bodies' decisions (henceforth referred to as "Supreme Court Regulation 01/66"). Though the filing requirements in Article 6 paragraph (3) of Supreme Court Regulation 01/66 are contingent upon meeting the requirements outlined in Article 70 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (Arbitration and Alternative Dispute Resolution Law), the aforementioned Supreme Court Regulation 01/66 represents an attempt by the government (judicial) to address the issue of the procedure for objecting to Consumer Dispute Settlement Agency arbitration awards.

According to the law on arbitration and alternative conflict resolution, this could be viewed as the annulment of the arbitration award, however there is an additional article as the basis for the objection procedure contained in Article 6 paragraph (5) Supreme Court Regulation 01/66 which reads "The Panel of Judges has the authority to hear the consumer dispute itself if an objection is submitted for reasons other than those listed in paragraph (3)". This article results in the absence of legal certainty against Consumer Dispute Settlement Agency's arbitration decisions because positive law makes there is no specific reason in terms of submission because the panel of judges can adjudicate alone even though the objection requirements adjusted to the arbitration's cancellation decisions are not used as the basis for objection. Article 70 of the Arbitration and Alternative Dispute Resolution Law it self has been submitted for judicial review (Constitutional Court's Decision Number 15/PUU-XII/2014).

Based on the description that has been presented, this paper aims to answer the questions that are presented to the problem as follows:

- a. How is the implementation of consumer protection law in consumer dispute resolution?
- b. How is legal certainty in consumer dispute resolution through Consumer Dispute Settlement Agency arbitration?

## **METHOD**

This research approach makes use of normative juridical research, which is conducted by looking at secondary or library sources. The process of identifying legal doctrines, rules, and principles to address current legal issues is known as normative juridical research (Muhaimin, 2020). The research approach was conducted through a statutory approach and a case approach (Marzuki, 2019). Data and information collection was obtained through a literature study using secondary data in the form of primary, secondary and non-legal legal materials. Literature study is a data collection technique by conducting a study of books, literature, notes, records, and non-law materials. study of books, literature, notes, and reports related to the problem to be solved, and reports related to the problem to be solved. In connection with the collection of data and information obtained through literature studies, data processing and data analysis are carried out qualitatively which will be described descriptively. Descriptive research is research

that is expository in nature to obtain a complete description of the legal situation in a place or a certain legal event in society. Both primary and secondary data were employed in this research. Using this method, the author aims to answer problems that are made based on scientific research guidelines.

## **RESULTS AND DISCUSSION**

### **Implementation of consumer protection law in consumer dispute resolution**

The community is protected in a number of ways, one of which is by providing legal protection. The existence of conflicting interests in people's lives must be reduced by society's legal system. The necessity to provide legal protection for the entire Indonesian nation can be found in the 1945 Constitution of the Republic of Indonesia. Every legislatively generated product must therefore be able to offer the community as a whole legal protection. Legal protection is an attempt to safeguard one's rights by figuring out how much authority he has to act and how to act in his best interests, according to a number of scholarly viewpoints (Rahardjo, 2000).

Consumer legal protection is a major concern, with global competition continuing to grow. In the face of competition and the abundance of goods and services that weaken customers' bargaining power, legal protection is necessary. State-provided legal protection is one type of legal protection for consumers. Actuality and urgency are typically taken into account when determining the significance of a state's regulation of consumers' legal protection. Understanding between consumer protection law and consumer law and the relationship between the main rights of consumers and the relationship between Consumer Protection Law and other areas of law can provide a comprehensive picture of Consumer Protection Law.

Basically, Nobody wants to get into a fight with someone else, including in the business context between producers and consumers. When disputes occur, they can result in losses for all parties involved, if they are correct or incorrect. Nonetheless, Sometimes their disagreements cannot be avoided because of miscommunications, violations of the law, breach of promise, differences in interests, or losses suffered by one of the parties. Consumer disputes refer to conflicts related to violations of consumer rights and cover various aspects of law, including civil, criminal, and state administrative law. Because it is more specific and solely addresses civil law issues, the phrase "consumer transaction dispute" is not utilized.

Consumer Protection Law was established to achieve a balance between safeguarding the interests of corporate actors and consumers in order to establish a robust economy. Things that are taken into consideration in the creation of laws protecting consumers include: The protection of consumers also means the protection of all Indonesian citizens as mandated within the national development objectives stated in the Preamble of the 1945 Constitution; The implementation of national development requires healthy and qualified human beings, which is obtained through the provision of good and sufficient needs. Therefore, consumers need to be protected to get good and sufficient needs; and Capital in the implementation of national development comes from the community. Therefore, consumers need to be protected from the possibility of property losses as a result of fraudulent behavior of business actors. These three basic concepts of the birth of consumer protection law in Indonesia prove that consumer protection law is presented in Indonesia in order to oversee national development. Therefore, the enforcement of consumer protection law is an absolute matter in order to oversee dignified national development.

The goal of consumer protection is to make consumers more self-aware, capable, and independent, as well as lifting their dignity by preventing the adverse effects of using products and/or services. Creating a protection framework that offers legal clarity, information disclosure, and access to information is another objective, as is empowering consumers to choose, determine, and demand their rights. In addition, this protection encourages business actors to understand the importance of responsibility and honesty, and to play a role in



enhancing the quality of products and/or services for the benefit of customer security, comfort, health, and safety as well as business continuity.

The rights and responsibilities of both consumers and business actors are contained in consumer protection law. If the things that have been regulated are violated and not fulfilled, there will be problems in the transaction process. In common terms, disputes are defined as a circumstance where parties engage in business endeavors encounter an issue, namely wishing for the other party to do or not do anything, but the other party refuses or does not act. Disputes can also be intended as the existence of disharmony between individuals or groups that enter into relationships because one party's rights are infringed upon or disturbed. Costumer Protection Law regulates dispute resolution for subjects in consumer protection law. The existence of the Consumer Dispute Settlement Agency mandated by the Costumer Protection Law in article 49 is an institution that can be used by consumers in enforcing their rights. The Costumer Protection Law provides three options in resolving consumer disagreements outside of court, such as arbitration, conciliation, and mediation. There are basic consumer rights namely (Kristiyanti, 2008):

- a. Customers have the right to safety, as well as the products and services that are provided to them. The products and services must not be dangerous to eat. In order to prevent bodily or psychological harm to consumers, particularly when it comes to products and services created and promoted by high-risk corporate actors;
- b. The right to know, Correct information must be provided with every product that is introduced to consumers, whether orally, through media marketing, or in the product packaging (goods). Every product that is supplied to customers must contain accurate, truthful, and transparent information to prevent them from forming the incorrect opinion about the goods and services. Customers require this information or guidance in order to avoid describing the product—in this case, goods or services—in an inaccurate or misleading manner. There are undoubtedly a number of ways to communicate this educational content, including orally to customers, through media marketing, or through product packaging;
- c. To choose, Consumers have the right to make choices in buying a product. He should also not be pressured and coerced by outsiders so that he does not have the freedom to buy or not buy;
- d. To heard, This right is closely related to the right to know. This is because the information provided by interested parties is often not sufficient to satisfy consumers;
- e. It is the right of consumers to obtain legal aid, protection, and settlement of consumer disputes in an appropriate and fair manner;
- f. Consumers have the right to instruction and advice on their rights as consumers;
- g. Customers are entitled to decent, equitable, truthful, and discrimination-free treatment and services;
- h. Customers have the right to reimbursement, reimbursement, and/or replacement if the products and/or services they obtain do not meet the terms of the contract or are not as intended. The obligations of business actors contained in the Costumer Protection Law are at least as follows:
  - a. Sincerity in carrying out its commercial operations;
  - b. Give accurate, understandable, and truthful information about the state and guarantee of the products and/or services, together with usage, maintenance, and repair instructions;
  - c. Customers should be treated or served appropriately, truthfully, and without bias;
  - d. Assure the quality of products and/or services manufactured and/or exchanged in accordance with the terms of the relevant quality standards for products and/or services;
  - e. Give customers the chance to test and/or try specific products and/or services, and offer assurances and/or warranties for manufactured and/or traded goods.;

f. Reimburse, compensate, and/or compensate for losses resulting from the usage, consumption, and utilization of traded products and/or services.

The Costumer Protection Law has provided a basis for consumers to obtain legal protection. This is mentioned in Article 4 of the Costumer Protection Law, which asserts that customers are entitled to advocate, protection, and attempts to appropriately settle conflicts pertaining to consumer protection. Furthermore, Article 23 of the Costumer Protection Law highlights that companies that disregard, fail to reply, or fail to provide the intended compensation for consumer demands may be sued by a consumer dispute resolution agency or brought before a court in the consumer's home. Any customer who experiences a loss has the right to sue a business actor through the normal judicial system or through an organization that handles consumer-business actor conflicts. Consumer complaints can be settled out of court or through the legal system, depending on the parties' voluntary decision. According to the law, criminal culpability is not eliminated when conflicts are resolved out of court as intended. The only way to file a lawsuit through the court if out-of-court settlement of consumer complaints has been selected is if one or both parties to the dispute believe that the effort was unsuccessful. Consumer disputes are settled out of court in order to agree on the type and amount of compensation as well as on specific measures to guarantee that the losses incurred by customers will not happen again.

The general court's guidelines are followed when consumer issues are resolved through the legal system. Based on Costumer Protection Law, the choice of dispute resolution route, either outside of or through the court, depends on the agreement between the parties. In the judicial process of consumer protection disputes, lawsuits can be filed in the form of ordinary individual lawsuits, simple lawsuits, class actions, or lawsuits filed by non-governmental consumer protection organizations and relevant government agencies. The type of lawsuit is determined by who is harmed, the number of parties who suffer losses, and the amount of loss caused. The Costumer Protection Law authorizes the Consumer Dispute Settlement Agency to handle consumer disputes outside of court. Mediation, arbitration, or conciliation procedures can be used to settle consumer issues through Consumer Dispute Settlement Agency.

The written agreement, which is signed by both sides and submitted to the Consumer Dispute Settlement Agency panel for reinforcement, outlines the outcome of the discussion, which is an agreement between the consumer and the business actor in question. Both parties are bound by this agreement. Administrative punishments are not included in the panel's decision in the conciliation and mediation procedure. Arbitration is one of the most formal forms of alternative dispute resolution before going to litigation. In this process, the disputing parties present their issues to a neutral third party and authorize that party to make a decision. Based on this definition, only civil matters can be settled and decided by arbitration institutions. The arbitration legislation states that the basis for this settlement is an agreement made by the parties either separately after the disagreement occurs or as an arbitration clause in a written agreement before the problem develops.

In contrast to the judicial conflict resolution procedure, the arbitration institution has several advantages, among others:

- a. Confidentiality of the parties' disagreement is ensured;
- b. One can prevent delays brought on by administrative and procedural issues;
- c. The parties may select arbitrators who, in their opinion, are honest, fair, and possess the necessary training, background, and expertise in the contested matters;
- d. The parties can choose the arbitration's procedure and location as well as the law to be used to settle their disputes;
- e. The arbitration award is a ruling that may be enforced through a straightforward and easy process and is legally binding on the parties.

Thus, the Costumer Protection Law has regulated the resolution of consumer issues through both non-litigation and litigation procedures, it is just that the regulations regarding the procedures for implementing non-litigation channels, especially arbitration, will be further criticized in the next section of the content.

### **Legal Certainty of Consumer Dispute Resolution Through Consumer Dispute Settlement Agency's Arbitration**

Talking about law is inseparable from the three basic objectives of law itself, namely justice, benefit, and legal certainty. The Costumer Protection Law is based on the following concepts: the ideals of fairness, benefit, balance, and legal certainty as well as consumer security and safety. Arbitration is a way of resolving civil disputes outside the courts that has several advantages over dispute resolution through litigation, among these is the arbitration's ultimate, legally enforceable ruling. Consumer protection disputes are increasingly occurring, in 2021 there were 3,256 complaints related to consumer protection issues, in 2022 there were 1,096, in 2023 there were 929, and in 2024 as of July 09, 2024 there were 337 complaints related to consumer disputes with business actors (Badan Perlindungan Konsumen Nasional, 2024). Based on the data above, there has been a significant decrease in the data on complaints related to consumer issues. This is not solely due to a decrease in the number of cases, but can also mean that the disputing parties do not complain or do not make efforts to resolve disputes through the institutions regulated in the Costumer Protection Law.

The absence of legal certainty and lack of harmony in the applicable regulations are the main reasons due to the public's poor comprehension of alternative dispute settlement, especially arbitration through Consumer Dispute Settlement Agency. Based on Article 54 paragraph (3) of Costumer Protection Law, it is stated that Consumer Dispute Settlement Agency's decision is final and binding. However, in Article 56 paragraph (2), it is stated that the relevant parties may file an objection to the Court against the arbitration decision rendered by Consumer Dispute Settlement Agency. These two articles give rise to different interpretations, especially regarding the legitimacy of Consumer Dispute Settlement Agency's arbitration awards (Rimanda, 2019). On the other hand, the Consumer Dispute Settlement Body was created with the intention of facilitating quick, simple, and affordable dispute resolution. quick because the legislation stipulates that it must be completed in 21 working days (Shofie & Awan, 2004).

Since the Costumer Protection Law was passed and the Consumer Dispute Settlement Agency institution was founded, there have been many debates about the process for raising objections to Consumer Dispute Settlement Agency arbitration awards to the court and what the legal basis is. In 2006, the Supreme Court Regulation of the Republic of Indonesia Number 01 of 2006 was issued concerning the Procedure for Filing Objections to Decisions of Consumer Dispute Settlement Bodies (hereinafter referred to as "Supreme Court Regulation 01/66"). Supreme Court Regulation 01/66 above is an effort by the government (judicial) to address the issue of the procedure for objecting to Consumer Dispute Settlement Agency arbitration awards, however the filing requirements contained in Article 6 paragraph (3) of Supreme Court Regulation 01/66 are if the conditions outlined in the Arbitration and Alternative Dispute Resolution Law, Article 70, are fulfilled, namely:

- a. Following the rendering of the verdict, a letter or document that was presented for scrutiny is acknowledged as being false or declared to be so;
- b. Following the Consumer Dispute Settlement Agency arbitration award, it is discovered that the opposing party has hidden a crucial document; or
- c. One of the disputing parties used deceit to have the decision made.

In comparison, The RV contains information on the annulment of arbitral awards found in the rules or guidelines pertaining to this topic (Reglement op de Rechtsvordering) with ten arguments including (Heliany, 2021):



- a. The existing award has exceeded the limits of the arbitration agreement;
- b. The judgment rendered is null and void;
- c. The deciding arbitrator has no authority and is not attended by an arbitrator who has authority;
- d. Arbitrators decide issues that are not the subject of the claim;
- e. The arbitrators' awards are inconsistent or mutually repugnant in their awards.
- f. There is evidence of falsity of the documents submitted for the basis of the verdict
- g. Decisions are based on known bad faith.

This can be interpreted as the arbitration award was revoked. which is also contained in the law on alternate conflict resolution and arbitration, however there is also another article as the basis for the objection procedure contained in Article 6 paragraph (5) PERMA 01/66 which reads "The Panel of Judges has the authority to hear the consumer dispute itself if an objection is submitted for reasons other than those listed in paragraph (3)". This article results in the absence of legal certainty against Consumer Dispute Settlement Agency arbitration decisions because positive law makes there is no specific reason in terms of submission because the panel of judges can adjudicate alone even though the objection requirements adjusted to the annulment of arbitration decisions are not used as the basis for objection.

Referring to the basic principles of arbitration stipulated in the Arbitration and Alternative Dispute Resolution Law, it should be understood that the development and sustainability of arbitration institutions depend heavily on the goodwill of the parties who choose arbitration as a method of resolving disputes, as well as on the attitude of the courts towards the application of arbitration. District courts are not permitted to investigate and decide cases covered by arbitration clauses since the Supreme Court has consistently held that arbitration has absolute jurisdiction under such clauses. However, in some cases, The Supreme Court has adopted a distinct stance, where disputes with arbitration clauses are still submitted to the court, which then processes and decides the case. In this situation, some court decisions treat arbitration clauses as if they are not a public matter, despite the fact that the *pacta sunt servanda* principle, which states that the parties are bound by the agreement, should be upheld.

Actually, arbitration is a method for settling civil disputes outside of public courts based on a written agreement between the parties to the dispute, according to Article 1 paragraph (1) of the Arbitration and Alternative Dispute Resolution Law (Matheus, 2021). Article 2 the Arbitration and Alternative Dispute Resolution Law restates that this legislation governs the resolution of conflicts resulting from certain legal relationships, such as arbitration agreements. Furthermore, according to Article 3 of the Arbitration and Alternative Dispute Resolution Law, issues involving parties bound by an arbitration agreement cannot be heard by the district court. Article 11 of the Arbitration and Alternative Dispute Resolution Law also states that the existence of a written arbitration agreement deprives the parties of the right to bring the dispute to the district court, except in certain cases stipulated by law. This situation may be due to the fact that Indonesia does not apply the principle of the binding force of precedent (*stare decisis*), which allows judges or courts to form new rulings according to the development of society. However, this can lead to legal inconsistency and uncertainty (Fitri & Almaududi, 2023).

Article 70 of the Arbitration and Alternative Dispute Resolution Law presents another issue since it is no longer legally binding due to the Constitutional Court's Decision Number 15/PUU-XII/2014. In Albert's dissertation, the implementation of the law in overcoming cases of annulment of arbitral awards after the Constitutional Court's decision is difficult to apply because the Constitutional Court's decision contradicts the Jurisprudence and Circular Letters of the Supreme Court which still refer to the Explanation of Article 70 of the Arbitration and Alternative Dispute Resolution Law in annulling arbitral awards. In addition, Article 60 of the Arbitration and APS Law and Supreme Court Jurisprudence also prohibit judges from

considering the legal considerations of arbitral awards, thus limiting the scope of judges in examining the reasons for annulment of arbitral awards (Partogi, 2022).

Another problem arises because there is no specific regulation that serves as a forum related to Consumer Dispute Settlement Agency's authority in handling cases, this can be seen in the debate from 2012 to 2018 related to two legal opinions on Consumer Dispute Settlement Agency's authority to handle cases of mortgage rights, fiduciary and credit agreements. Anybody who utilizes products and/or services is considered a consumer under consumer protection law, implicitly regarding matters related to financing services are also included in products that need to be protected if they harm consumer rights. However, if seen from the Supreme Court Jurisprudence 1/Yur/Perkons/2018, the Court considers that disputes arising in the implementation of consumer financing agreements are not consumer disputes so that these disputes are not the authority of Consumer Dispute Settlement Agency. In practice, it can be found that Consumer Dispute Settlement Agency continues to accept cases related to consumer financing institutions and are eventually canceled by the District Court such as the case in Number 29/Pdt.Sus-BPSK/2023/PN Lbo.

Regulations related to the duties and authority of Consumer Dispute Settlement Agency as well as regulations on Consumer Dispute Settlement Agency, have not regulated what kind of consumer disputes can be accepted and decided by Consumer Dispute Settlement Agency. This is necessary in order to avoid cases of cancelation of decisions by Consumer Dispute Settlement Agency because they are not in line with the jurisprudence of the Supreme Court. We can see step by step the Consumer Dispute Settlement Agency regulations starting from:

- a. Decree of the Minister of Industry and Trade No. 350/MPP/Kep/12/2001 on the Implementation of the Duties and Authority of the Consumer Dispute Resolution Body;
- b. Regulation of the Minister of Trade of the Republic of Indonesia Number 17/M-DAG/PER/4/2007;
- c. Minister of Trade Regulation No. 6/2017; and
- d. Regulation of the Minister of Trade Number 72 of 2020.
- e. The duties and authority of Consumer Dispute Settlement Agency are as follows:
- f. Handle and resolve consumer problems through arbitration, mediation, or conciliation;
- g. Offer advice on consumer protection;
- h. Watch over the addition of standard clauses;
- i. Reporting any violations of the provisions of Consumer Protection Law to the public investigator;
- j. Receive customer complaints on consumer protection violations, both in writing and verbally;
- k. Investigate and analyze consumer protection disputes;
- l. Call out companies that may be in violation of consumer protection laws;
- m. Call witnesses, experts, and/or anybody else who may know about infractions of Consumer Protection Law;
- n. Ask investigators for help in presenting witnesses, business actors, expert witnesses, or anybody else mentioned in letters g and h who is unwilling to comply with Consumer Dispute Settlement Agency's summons;
- o. To investigate the investigation and/or examination, gather, review, and/or evaluate letters, papers, or other evidence;
- p. Identify and ascertain whether the consumer has suffered a loss;
- q. Notify the decision to the business actor who violates the Costumer Protection Law; and
- r. Apply administrative fines to companies that break the Costumer Protection Law.

A good alternative dispute resolution must at least fulfill the following principles:

- a. It must be time efficient;

- b. It must be cost-effective;
- c. It must protect the rights of the parties to the dispute;
- d. It must be able to produce a fair and honest decision;
- e. The body or person resolving the dispute must be trusted by the community and the parties to the dispute;
- f. The decision must be final and binding;
- g. The decision must be able and easy to execute;
- h. The alternative dispute resolution must be fair and honest. The decision must be enforceable and easy to execute; and
- i. The decision must be in accordance with the sense of justice of the community in which the dispute resolution is conducted.

Some of the weaknesses of the Costumer Protection Law related to the existence of Consumer Dispute Settlement Agency are as follows: The first is the chance to challenge Consumer Dispute Settlement Agency 's ruling in the District Court (this is not limited in any way). Second, following a number of changes pertaining to Consumer Dispute Settlement Agency 's responsibilities and powers, there is still no clarity regarding disputes that become the authority and duties of Consumer Dispute Settlement Agency. Third, the increasing number of Consumer Dispute Settlement Agency duties makes Consumer Dispute Settlement Agency not run optimally as a consumer dispute resolution body in the event of a dispute between consumer subjects. The advantages of dispute resolution through arbitration are canceled if there is a buildup of regulations that have many interpretations and do not have absolute legal certainty. Final and binding Consumer Dispute Settlement Agency arbitration decisions are only in the corridor of the consumer dispute resolution agency in the sense that there are no more legal remedies through Consumer Dispute Settlement Agency against late decisions, but parties who feel unfavorable to the decision can file an objection no later than 14 days after the decision is announced. The above becomes a legal loophole for parties who do not have a strong basis for resolving disputes through arbitration because an objection can be filed with the district court although legally it is not considered as an appeal level, on the other hand if there is no substantial objection to the Consumer Dispute Settlement Agency decision then human resources as the structural function of Consumer Dispute Settlement Agency must have qualified abilities and good integrity so that the decision can be accepted by all parties to the dispute. Therefore, it is first necessary to have a regulation that covers all efforts related to legal harmonization in order to achieve legal certainty so that this regulation can provide benefits for consumer rights.

## CONCLUSION

Regarding the application of consumer protection law in consumer dispute resolution through Consumer Dispute Settlement Agency, it can be concluded as follows:

1. Litigation and non-litigation settlements are the two ways that consumer protection law is applied in consumer dispute resolution. litigation means in line with the general court mechanism while non-litigation through Consumer Dispute Settlement Agency consists of mediation, conciliation, and arbitration. Mediation is a way of resolving disputes through a communication process between the disputing parties to obtain an agreement with the assistance of a mediator. Conciliation is an out-of-court dispute resolution by means of peaceful means where there is third party intervention (the conciliator is more active than the mediator), what distinguishes it from mediation is the active participation of third parties in trying to get the parties to settle the dispute. Arbitration is a way of resolving a civil dispute outside the public courts based on an arbitration agreement made in writing by the parties to the dispute.
2. Consumer Dispute Settlement Agency's arbitration decisions are final and binding only on Consumer Dispute Settlement Agency institutions, which means that objections can be filed

with the district court. In addition, Consumer Dispute Settlement Agency's authority in handling a consumer protection case has not been specified, so that its decisions are often erroneous and overturned by the district court because it is considered not authorized to hear the case. Therefore, it is necessary to have a harmonized legal reconstruction in an effort to harmonize a consumer protection regulation in order to create legal certainty, followed by the benefits received by consumers in an effort to protect their rights.

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