



Fakultas Hukum Universitas Riau, Jalan Pattimura Nomor 9 Gobah, Kel. Cinta Raja, Kec. Sail, Pekanbaru, Riau,
Kode Pos 28127. Telp: (+62761)-22539, Fax : (+62761)-21695
E-mail: melayunesialaw@lecturer.unri.ac.id
Website: <https://myl.ejournal.unri.ac.id>

***Rechtssicherheit* Alternative Dispute Resolution in Financial Services (LAPS SJK) as a Forum for External Dispute Resolution in Services of Consumer Complaints through Consumer Protection Portal Application (APPK)**

Riri Lastiar Situmorang^a, Ariawan Gunadi^b

^a Master of Law, Tarumanegara University, Indonesia, email: ririlastiar.situmorang@gmail.com

^b Lecturer, Tarumanegara University, Indonesia, email: ariawangun@gmail.com

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Abstract

The Financial Services Authority (OJK) is an institution formed with one of its objectives that is protecting Consumers and public interests. OJK provides complaint services by having an adequate system, making the complaint mechanisms of Consumers handling and facilitating complaints settlement. The complaint mechanism is carried out by establishing two stages of Consumers services, namely internal dispute resolution (IDR) which, if not completed, enters the external dispute resolution (EDR) stage, namely the court and the alternative dispute resolution institution that received OJK approval, namely LAPS SJK. In addition, at the beginning of 2022, OJK prepared a system, namely the Consumer Protection Portal Application (APPK) as a forum for resolving complaints at the IDR stage and through APPK the complaints can be forwarded by consumers to LAPS SJK. The purpose of this research is to know and understand legal certainty aspect in the appointment of the LAPS SJK forum that associated with the basic principle of dispute resolution which is the agreement between the parties including Financial Services (PUJK). This research was conducted using normative research with data collection through literature study. Based on the results of the research, PUJK's agreement is needed in choosing the forum of settlement whether through the court or alternative dispute resolution. But as stipulated in the regulations, the alternative dispute resolution institution for financial services just LAPS SJK.

INTRODUCTION

State agency in Indonesia has certain roles and functions aimed at achieving the goals of the state, as stated in the preamble to the Constitution of the State of The Republic of Indonesia of The Year 1945 (UUD 1945). Therefore, each state agency must carry out its duties and functions responsibly. This responsibility is measured by the regulations that underlie the implementation of the duties and authorities of the institution. This is inseparable from the concept of Indonesia is a state based on law as stipulated in Article 1 clause 3 of the UUD 1945.

One of the conceptions of the state of law is the government that carries out duties and obligations should be based on laws or regulations.¹

Based on data from the third National Financial Literacy and Inclusion Survey (SNLIK) conducted by the Financial Services Authority (OJK) in 2019, it shows that the financial literacy index reached 38.03% and the financial inclusion index 76.19%.² These data show that the level of inclusion or utilization of financial products in Indonesia is quite high, but the level of understanding of financial products or services is very low. The possibility of consumer complaints arising is also correlated with that *gap* between inclusion and literacy in the financial services sector. OJK as an agency with the main purpose of regulating and supervising the financial services sector as well as to protecting consumers and the public interests as stipulated in Law of The Republic of Indonesia Number 21 of 2011 on Financial Services Authority (OJK Law). The provisions in Article 4 jo. Article 28, Article 29, Article 30 and Article 31 of the OJK Law describe OJK's tasks in consumer protection, which include handling consumer complaints, the authority to take action to prevent losses to consumers and the public, conducting legal defense or legal advocacy and the issuance of Regulation of The Financial Services Authority (POJK) regarding consumer protection and public interest.

OJK's authority related to the issuance of such regulations is also in line with the theory of government validity (the principle of legality) or known as *het beginsel van wetmatigheid van bestuur*³ to see the validity of POJK issued by OJK in consumer protection including the mechanism for handling consumer complaints. Following up on these authorities and duties, OJK issued several POJKs regarding the mechanism for handling and resolving consumer complaints, namely POJK Number 6/POJK.07/2022 on Consumer and Public Protection in the Financial Services Sector (POJK 6/2022), Financial Services Authority Regulation Number 61/POJK.07/2020 on Alternative Dispute Resolution Institutions in the Financial Services Sector (POJK 61/2020), POJK Number 31/POJK.07/2020 on the Implementation of Consumer and Public Services in the Financial Services Sector by the Financial Services Authority (POJK 31/2020), and Regulation of the Financial Services Authority of the Republic of Indonesia Number 18/POJK.07/2018 on Consumer Complaint Services in the Financial Services Sector

¹ Sri Soemantri, *Bunga Rampai Hukum Tata Negara Indonesia*, (Bandung: Alumni, 1992), 29-30.

² Otoritas Jasa Keuangan, *Survey Nasional Literasi dan Inklusi Keuangan 2019*, 1 Desember, 2020, <https://www.ojk.go.id/id/berita-dan-kegiatan/publikasi/Pages/Survei-Nasional-Literasi-dan-Inklusi-Kuangan-2019.aspx>.

³ Ridwan, H.R., *Hukum Administrasi Negara, Edisi Revisi*, (Depok: Rajawali Pers, 2020), 91.

(POJK 18/2018). Based on these regulations, OJK has established a mechanism for handling consumer complaints. It is carried out through *internal dispute resolution* (IDR) and *external dispute resolution* (EDR). This complaint handling mechanism was further strengthened by the issuance in Law of The Republic of Indonesia Number 4 of 2023 on the Development and Strengthening of the Financial Sector (PPSK Law).

IDR is a mechanism for resolving complaints between Consumers with Financial Service Institutions (PUJK). If it is not completed at the IDR stage, then the Consumer can continue to resolve the dispute through the court or alternatif dispute resolution (ADR).⁴ This stage for the financial services sector is known as EDR. Dispute resolution using ADR must be carried out through an institution approved by OJK (ADR SJK). The Financial Services Sector Alternative Dispute Resolution Institution (LAPS SJK) is an ADR SJK formed by all financial services sector associations (associations) and *Self-Regulatory Organizations* (SROs) and obtained OJK approval as stipulated in POJK 61/2020. LAPS SJK received OJK approval on January 1, 2021 through the Decree of Members of the Board of Commissioners for Consumer Education and Protection number KEP-3 / D.07 / 2020 dated December 29, 2020 and began operating on January 1, 2020 with three services that are binding opinion services, mediation services and arbitration services.

On the other hand, OJK for the sake of improving consumer protection, then in 2021 created the Consumer Protection Portal Application (APPK). APPK is a *web-based* portal provided for Consumers and PUJKs and LAPS SJKs in an effort to handle Consumer complaints and resolve Consumer disputes.⁵ Through APPK, it is hoped that the implementation of IDR can be better and monitored. This is because IDR is the *first line of resolution* which has an important role in maintaining public trust so that people feel safe and not afraid to use financial sector products/services. IDR is not a formalistic procedures because the settlement obligation arises based on the philosophy of consumer empowerment and the principle of deliberation for consensus.⁶

⁴ Efa Laela Fakhriah, Mekanisme Penyelesaian Sengketa Bisnis yang Efektif dan Efisien, *Kompilasi Hukum Bisnis dalam rangka Purnabakti Prof. Dr. H. Man Sastrawidjaja*: Fakultas Hukum Universitas Padjadjaran, (2012), 217.

⁵ Bernadetta Tjandra Wulandari, Aplikasi Portal Perlindungan Konsumen (APPK) Otoritas Jasa Keuangan Penajaman Aspek Perlindungan Pada Sistem Jasa Keuangan, *Jurnal Hukum dan Bisnis (Selisik)*, Fakultas Hukum Universitas Pancasila 8, no.2, (2022):40, <https://journal.univpancasila.ac.id/index.php/selisik/article/view/4483>

⁶ Otoritas Jasa Keuangan, *Strategi Perlindungan Konsumen Keuangan 2013-2027* (Jakarta: Otoritas Jasa Keuangan, 2017), 36.

APPK is here to facilitate Consumers in submitting their complaints to PUJK. For such complaints, PUJK must submit an answer or response within a period of 20 (twenty) working days and can be extended by 20 (twenty) working days as stipulated in POJK 18/2018. If the PUJK has responded to the Consumer's complaint or the period has passed, then in the Consumer section in the APPK an option appears, namely accepting the PUJK's answer or rejecting the PUJK's answer. If Consumer choose to reject the PUJK's answer, there are 2 (two) more options, namely continuing the settlement through the Alternative Financial Services Sector Dispute Resolution Institution (LAPS SJK) or not.

LAPS SJK is an ADR SJK institution established with the aim that there is one integrated out-of-court settlement institution for the financial services sector. This is inseparable as an effort to strengthen consumer protection by making it easier for consumers to access ADR institutions without having to be limited by which sector should be authorized to resolve the dispute. Especially with the current developments in the financial services sector, which has led to the emergence of cross-sectoral products or services, also known as *hybrid products*. The need for an integrated ADR SJK is essential to optimize the protection of financial services consumers and maintain financial system stability.⁷ Additionally, LAPS SJK is also established to ensure standardization in dispute resolution procedures accepted by consumers.

It is very acceptable for Consumer to decide to reject the PUJK's answer and choose to continue their complaint resolved through LAPS SJK if the provided response by the PUJK is not as expected. Especially with the system that has been integrated in APPK. Consumers certainly will use every effort to seek a resolution to their complaints. However, the principle of out-of-court settlement which aims as a *mutual acceptable* solution using informal settlement procedures. Therefore, the agreement on the selection of forums and dispute resolution services becomes crucial in determining the absolute competence of the selected dispute resolution institution⁸, in this case LAPS SJK through APPK.

This topic is important to be further examined because agreements are essential in the dispute resolution process which is closely related to aspects of legal certainty in consumer

⁷ Atika Ismail dan Eni Suarti, Analisis Perlindungan Konsumen pada Lembaga Alternatif Penyelesaian Sengketa (LAPS) Sektor Jasa Keuangan di Indonesia, *Jurnal Sol Justicia: Magister Ilmu Hukum Universitas Kader Bangsa* 4, no.1 (Juni 2021):35.

⁸ Mahkamah Agung Republik Indonesia, *Laporan Penelitian Alternatif Dispute Resolution (Penyelesaian Sengketa Alternatif) dan Court Connected Dispute Resolution (Penyelesaian Sengketa yang Terkait Pengadilan)*, (Jakarta: Mahkamah Agung RI, 2000), 5.

protection. In practice, there are some Financial Services Business Entities (PUJK) that state their unwillingness to continue the dispute resolution process for complaints that are forwarded to LAPS SJK through APPK.⁹ Furthermore, this problem also has implications for the validity of the settlement agreement and the feasibility of executing the handling of the Consumer complaint. Therefore, this paper takes the discussion entitled *Rechtssicherheit Alternative Dispute Resolution in Financial Services (LAPS SJK) as a Forum for External Dispute Resolution in Services of Consumer Complaints through Consumer Protection Portal Application (APPK)*.

CONSUMER COMPLAINT MECHANISM THROUGH CONSUMER PROTECTION PORTAL APPLICATION (APPK)

In accordance with the authority granted to OJK based on Article 29 paragraph (2) of the OJK Law, OJK is authorized to establish a complaint mechanism for consumers who experience losses due to Financial Service Institutions in this case are Financial Services Business Entities (PUJK). The mechanism is established in the form of POJK related to handling complaints as a technical regulation as stipulated in Article 31 of the OJK Law. POJK 31/2020 is a specific regulation that governs the technical implementation of consumer and community services by OJK as well as the basis for the establishment of APPK.

POJK 31/2020 mandates the establishment of an integrated consumer service system in the financial services sector, which on January 1, 2021, OJK launched APPK. APPK is an integrated customer service system where consumers can request information, provide information and submit complaints through the portal. The establishment of APPK is an effort by the OJK to keep up with technological advancements and digitize the process to make it easier for consumers to submit their complaints to the Financial Services Provider. This is also an implementation of the principles of consumer protection effective and efficient complaint handling and dispute resolution in financial sector. The presence of APPK is also expected to be able to cultivate a *complain habit*, so consumers feel empowered to raise any concerns or issues related to the use of financial products/services.

The submission of complaints by consumers basically is an expression of dissatisfaction. This expression of dissatisfaction can occur due to several things such as

⁹ Tri Herdianto (Direktur Pembelaan Hukum Konsumen Otoritas Jasa Keuangan), wawancara dengan Peneliti secara *online* melalui *zoom meeting*, 24 April 2023.

Consumer dissatisfaction of the service received, the Consumer's lack of understanding of the product or service received both in terms of benefits, risks, procedures for paying their obligations or because the Consumer does not receive sufficient explanation or information. However, the provisions in POJK 31/2020 jo POJK 6/2022 has regulated about distinction of consumer complaints into two kind of complaints, which are complaints indicating disputes and complaints indicating violations. Complaints indicating disputes and violations can be submitted by Consumers through APPK. However, only complaints indicating disputes can be handled by LAPS SJK. Meanwhile, the resolution of complaints indicating violations is carried out by OJK by reviewing and asking for an explanation to the PUJK. Complaints can be continued into an examination process or the imposition of other actions if in the review process there are indications of violations of the provisions of laws and regulations in the financial services sector.

The process of resolving consumer complaints through APPK is the same as the process of consumer complaints handling that submitted conventionally as stipulated in POJK 18/2018. PUJK has the obligation to provide responses to complaints submitted through APPK. Handling complaints through APPK is equated with the IDR process carried out by consumers directly with PUJK. If the answer or settlement submitted by the PUJK is not accepted by the Consumer, in the APPK there is a final choice that arises that Consumers can choose, which is to continuing thhe resolution of the complaint to LAPS SJK (out-of-court settlement) or the court (not recorded in the APPK). APPK does not provide options for resolving complaints to OJK. This is related to the development of the APPK system in accordance with the provisions of POJK 31/2020 and POJK 6/2022, namely OJK has not handled complaints indicating disputes through facilitation since December 31, 2020 or limited facilitation due to the existence of SJK ADR, LAPS SJK. Consumers who choose to settle to LAPS SJK then the documents that have previously been inputted in the APPK are forwarded to LAPS SJK through APPK.

LAPS SJK as an alternative disputes resolution can only handle complaints that are civil disputes. This is in line with the reasons fot the forming out-of-court dispute resolution for civil disputes as stipulated in in Law of The Republic of Indonesia Number 30 of 1999 on Arbitration and Alternative Dispute Resolution (Arbitration Law and APS). As it is known that at the beginning of the 18th century settlement of disputes in the field of trade, states made settlements initially diplomatically to maintain good relations between countries by seeking peace or approaches to bring together interests but later felt the need to bring towards

adjudication.¹⁰ This basis that then becomes the basis for resolving disputes outside the court is related to civil disputes.

In APPK, there is no process for categorizing complaints that indicate disputes or not. Consumers only need to input their complaint, equipped with the identity of the Consumer / Consumer representative, a special power of attorney, the type and date of the financial transaction, and an explanation of the problem complained of as stipulated in Article 10 paragraph (2) POJK 18/2018. Similarly to PUJK, PUJK are not obligated to provide a response or answer by categorizing the complaint as a dispute or violation.

This differentiation of complaint types is relates to the implementation of the Consumer and Community protection function by OJK as regulated in POJK 31/2020 jo POJK 6/2022. The OJK's APPK Monitoring Team conducts screening of the complaints received through the portal. If there are types of violations committed by PUJKs that are massive or repeated violations, the monitoring report becomes a consideration for conducting *market conduct supervision*, which is a supervision of PUJK behavior and their compliance with the provisions with consumer protection regulations in the financial services sector.

On the other hand, APPK assists OJK in supervising the handling of complaints through IDR by PUJK. OJK through the Monitoring Team within the Directorate of Consumer Services, Complaint Examination and Regional EPK (DPKR) of the OJK, conducts monitoring of IDR complaint handling inthe APPK. The monitoring activities is related to:¹¹

1. *Service Level Agreement (SLA)* for providing answers or information by PUJK through APPK is 20 working days and can be extended by 20 working days.
2. The substance of the IDR answer. PUJK's response to complaints received under Article 22 POJK 18/2018 can be, but is not limited to:
 1. Explanation of the problem. This is given if there are no mistakes made by the PUJK.
 2. Offer a solution if based on the review of the PUJK there is an error from the PUJK. Against the settlement offer, the PUJK can give a period of time to the Consumer to decide whether or not to accept the settlement offered.

Through these monitoring activities, the OJK can ensure that PUJK complies with IDR dispute resolution provisions and provides adequate services to consumers. If any non-

¹⁰ M. Yahya Harahap, *Perlawanan Terhadap Eksekusi Grose Akta Serta Putusan Pengadilan dan Arbitrase dan Standar Hukum Eksekusi*, (Bandung: PT. Citra Aditya Bakti, 1996), 211-212.

¹¹ Tri Herdianto (Direktur Pembelaan Hukum Konsumen Otoritas Jasa Keuangan), wawancara dengan Peneliti secara *online* melalui *zoom meeting*, 24 April 2023.

compliance or issues in complaint handling are identified, the OJK can take necessary actions to ensure compliance and consumer protection in the financial services sector.

According to the provisions of POJK 18/2018, there are several circumstances that serve as grounds for PUJK not to proceed with the complaints submitted to them. These are regulated in Article 19 POJK 18/2018, which includes the following: failure to provide complete document requirements, has been resolved by the PUJK, the complaint does not related to reasonable of loss or potential material loss and directly attributed to the agreement or financial transaction document, and/or the complaint has no relevance to the related PUJK financial transaction. The document requirements in question are the identity of the Consumer /Consumer representative, a special power of attorney, the type and date of financial transactions, and an explanation of the problem complained.

LEGAL CERTAINTY REGARDING THE SELECTION OF LAPS SJK AS A CONSUMER COMPLAINTS RESOLUTION FORUM THROUGH APPK

PUJK is obligated to adhere to the principles of consumer protection as stated in the financial services regulation. The provisions regarding the principles of consumer protection in financial services for the first time were initially received special arrangements in the POJK concerning consumer protection. After the issuance of the P2SK Law, these principles were strengthened through the inclusion of Article 228 of the P2SK Law. In accordance with the principle in the legislation, which is *lex superior derogat legi priori*, that principle essentially explains that norms in higher-level regulations negate norms in lower-level regulations.

Regulations in the P2SK Law related to consumer protection principles for the financial services sector are used. The principles include:¹²

1. Adequate education;
2. Transparency and disclosure of product/service information;
3. Fair treatment and responsible business conduct;
4. Protection of assets, privacy and Consumer data;
5. Effective and efficient handling of complaints and dispute resolution;
6. Compliance enforcement; and
7. Healthy competition.

¹² Indonesia, Law Number 4 of 2023 concerning the Development and Strengthening of the Financial Sector (*State Gazette of the Republic of Indonesia of 2023 Number 4, Supplement to the State Gazette of the Republic of Indonesia Number 6845*), Article 228.

Fulfillment of principles related to effective and efficient complaint handling and dispute resolution, as well as enforcement of compliance is crucial to enforce consumer protection. The implementation of these principles includes following every stage of handling complaints in the financial sector which have been regulated both in laws and regulations in the financial services sector (POJK). By adhering to the flow of resolving complaints and disputes settlement, PUJK can provide legal certainty for consumers. Legal certainty in this context means that consumer is aware of, or can reasonably anticipate, the steps they need to take to resolve their issues. As stated by Peter Mahmud Marzuki, legal certainty is the ability to provide guidelines or instructions for a process.¹³

The mechanism for handling complaints is part of dispute resolution because complaints itself are the origin of dispute. Complaints that are not resolved in the IDR stage through APPK can be forwarded or escalated to LAPS SJK. Consumer Complaints forwarded to LAPS SJK through APPK are then followed up by LAPS. LAPS SJK verifies the incoming complaints by assessing whether the complaints have a *real* or material losses and do not included within the nine categories of rejected complaints. The nine categories are as follows:

1. Involving criminal case and/or currently under police investigation.
2. Massive in nature (cannot be resolved partially).
3. Not yet undergone IDR or the parties involved wish to back to IDR stage.
4. Currently under process or has been decided by another institution.
5. The parties do not agree to settle the dispute through LAPS SJK and/or there is no legal relationship between the parties.
6. Involving third parties outside the financial services sector or misdirected to PUJK.
7. Related to financial industry policies or standards (*common knowledge*).
8. The contact could not be reached.
9. Related to *debt collector behavior*.

Alongside the verification process, The LAPS SJK team also conducts confirmation, specifically with the PUJK, regarding their willingness or approval to resolve disputes through the LAPS SJK. The Confirmation done for the resolution of complaints that are categorized as small claim disputes at the LAPS SJK. The services provided to resolve complaints which are

¹³ Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Cetakan ke-6. (Jakarta: Kencana Prenada Media, 2014), 136-137.

small claim disputes are mediation services at the LAPS SJK. LAPS SJK appoints a mediator for applications included in the *small claim* mediation service, while commercial mediation the parties can choose the mediator. Once all administrative stages are completed, the mediator is required to conduct and complete the mediation process within a period of 30 days, which can be extended if the parties agree. In the case where the parties reach an agreement as the results of mediation, the mediation secretary has the obligation to monitor the implementation of the agreement. Monitoring of the implementation of a peace agreement can indeed be done by contacting the contact numbers of the parties. By establishing communication with the parties and regularly following up on the progress and compliance with the agreement, monitoring can ensure that the agreed-upon terms are being upheld. This allows for effective oversight and enables necessary actions to be taken if any issues or deviations arise during the implementation process.

Until now, the laws that regulate the procedures and methods for dispute resolution outside the court, including mediation, are the Arbitration Law and the Alternative Dispute Resolution Law (ADR Law). Article 1 clause 8 and clause 10 of the Arbitration Law and APS Law stipulate that to resolve disputes through ADR which is the LAPS SJK, there must be an agreement on the selected institution. The agreement must exist both from the Consumer and the PUJK as a party to the dispute if it refers to the provisions in the Arbitration Law and APS. The provisions about the dispute resolution procedures are usually included in standardized agreements. Therefore, the dispute resolution mechanism used is as stated in the standardized agreement. However, when considering the existing dispute resolution clauses, they usually do not directly specify the chosen process, whether through court litigation or alternative dispute resolution. Although the choice of forum can be made through a separate agreement, this may not be effective and efficient in terms of cost and time.¹⁴

This ambiguity about the option of the chosen method as a forum for consumer complaint handling, can result in uncertainty and lack of clarity. Indeed, this lack of clarity can lead to new issues. Therefore, the chosen dispute resolution forum must be clearly and explicitly determined from the outset to provide legal certainty. This will enable the parties to understand the dispute resolution mechanism that will be utilized in the event of dispute.

¹⁴ Ema Rahmawati dan Rai Mantili, *Penyelesaian Sengketa Melalui Lembaga Alternatif Penyelesaian Sengketa di Sektor Jasa Keuangan di Indonesia*, *Jurnal PJIH: Fakultas Hukum Universitas Padjadjaran* 2, no.2 (2016):248

However, there are important principles in a covenant. The principles in question are agreements, there are 3 (three) principles that are interrelated, namely the principle of consensualism, the principle of binding contracts and the principle of freedom of contract.¹⁵ The principle of consensualism is related to the arises of a contract, the principle of binding a contract is related to binding the agreement as a law for the parties (*pacta sunt servanda*) while the principle of freedom of contract is about the freedom of regulation of the content of the contract.

There is one principle that also needs to be known and considered when discussing contract validity dan its content. The principle is a complementary principle. According to the complementary principle, parties can regulate their rights and obligations outside the provisions of the law. However, if the agreement does not stipulate anything else, the statutory provisions will apply.¹⁶ The scope of application of the principle of complementation is only related to the rights and obligations of the parties, namely consumers and PUJKs. Therefore, regulations regarding the rights and obligations of consumers and PUJKs in the provisions of laws and regulations in the financial services sector apply to every existing agreement as long as it is not regulated differently by the parties and does not violate the provisions of laws and regulations, public order and decency.

The provisions of Article 6 POJK 61/2020 have confirmed that out-of-court settlements for the financial services sector can only be carried out by one ADR SJK, namely LAPS SJK. Therefore, PUJK is a subject to these provisions and must comply with them. The PUJK cannot refuse to resolve a dispute through the LAPS SJK, unless the PUJK chooses to resolve it through the courts. On the other hand, as per Article 6 paragraph (3) of the Arbitration Law and APS, decisions made by consumers through APPK can be considered as a substitute for written agreement. Provisions in legislation relating to electronic systems allow this equalization.

Article 5 paragraphs (1) and (2), as well as Article 6 of Law of The Republic of Indonesia Number 11 of 2008 on Electronic Information and Transactions (ITE Law), recognize the use of electronic systems to replace older methods used, namely written or printed on paper. This recognition is given as long as the information and/or electronic documents can

¹⁵ Ridwan Khairandy, *Itikad Baik dalam Kebebasan Berkontrak*, Cetakan ke-2,(Jakarta: Universitas Indonesia, 2004), 29.

¹⁶ Abdulkadir Muhammad, *Hukum Perdata Indonesia*, (Bandung: PT Citra Aditya Bakti, 2019), 295.

be accessed, displayed and guaranteed suitability. Article 5 paragraph (4) of the ITE Law stipulates that a letter that according to law must be written or made in a notarial deed or deed making official cannot be converted into an electronic document. However, a written agreement intended to mediate its products is not a letter contemplated in the Article. Therefore, the statement of the Consumer's will through APPK is a settlement agreement as referred to in the Arbitration Law and APS.

For PUJK themselves, the provisions of Article 245 paragraph (1) of the PPSK Law provide an obligation for the PUJK to implement a mechanism for resolving complaints submitted by consumers. The provisions of the article then make PUJK should be bound to consumer choices submitted through APPK, namely the selection of LAPS SJK as a settlement forum. Then it is possible that in the context of resolving *small claim disputes* through mediation, LAPS SJK does not need to carry out confirmation activities to the PUJK regarding the fulfillment of the requirements of a settlement agreement.

The discussion regarding whether or not the final outcome of mediation is binding, it must begin with the settlement forum based on mutual agreement. This agreement is also important to determine the absolute competence of the chosen dispute resolution body, so that the decision or agreement of the LAPS SJK can be recognized and legitimated. The product of *small claim mediation* is a peace agreement. A peace agreement is an agreement whose content is the result of an agreement between the Consumer and the PUJK which is assisted in its formulation or manufacture by a mediator.¹⁷ The peace agreement was signed by the consumer, PUJK and mediator who handle the case.

Conciliation decision in mediation is final and binding for the parties, but does not yet have executory powers. Legal force in the form of executory power only exists if there is an upgrading status from the peace agreement into a peace deed (*acte van dading*).¹⁸ That process must be carried out by the parties themselves because that process is different process than mediation services. Upgrading the status to a peace deed can be through registration with the court by filing a lawsuit which then by the Examining Judge strengthens the contents of the

¹⁷ Dona Budi Kharisma, "Tantangan LAPS Sektor Jasa Keuangan sebagai Alternatif Penyelesaian Sengketa di Sektor Financial Technology", *Jurnal Hukum Prespektif: Fakultas Hukum Universitas Wijaya Kusuma Surabaya* 26, no. 3 (September 2021): 218.

¹⁸ Dedy Mulyana, Kekuatan Hukum Hasil Mediasi di Luar Pengadilan Menurut Hukum Positif, *Wawasan Yuridika: Sekolah Tinggi Hukum Bandung* 3, no. 2, (September 2019): 193, <https://ejournal.sthb.ac.id/index.php/jwy/article/view/224>.

peace agreement.¹⁹ LAPS SJK also provides efforts to upgrade the status of peace agreements to peace awards through arbitration proceedings at LAPS SJK.

CONCLUSION

The Changes in complaint handling mechanism at the EDR stage occurred after POJK 31/2020 was issued. Previously, OJK still facilitated complaints indicating disputes before POJK 31/2020 was issued, but now a days OJK no longer provides facilitation for handling consumer services because LAPS SJK is established and the issuance of POJK 31/2020. The establishment of APPK for the financial services sector is one form of OJK's duty to protect consumers and the public interest. APPK is a forum for Consumers to be able to submit their complaints to PUJK outside the direct complaint channel provided by PUJK, and it also as an access for Consumers to be able to forward their complaints to LAPS SJK in the form of dispute.

The expression of intention by Consumer through APPK recognized as an agreement based on the Arbitration Law and APS as well as the ITE Law. Furthermore, as a form of legal certainty through clear and definite guidelines for complaint resolution, if a complaint forwarded by the Consumer passes the verification for handling *small claim* disputes by LAPS SJK, it becomes binding for the PUJK. This certainty regarding this matter is explicitly stated in the POJK related to consumer protection and Article 245 paragraph (1) of the PPSK Law.

BIBLIOGRAPHY

- Bernadetta Tjandra Wulandari, "Aplikasi Portal Perlindungan Konsumen (APPK) Otoritas Jasa Keuangan Penajaman Aspek Perlindungan Pada Sistem Jasa Keuangan", *Jurnal Hukum dan Bisnis (Selisik)*, Fakultas Hukum Universitas Pancasila 8, no.2, (2022): 30-46. <https://journal.univpencasila.ac.id/index.php/selisik/article/view/4483>
- Fakhriah, Efa Laela. *Mekanisme Penyelesaian Sengketa Bisnis yang Efektif dan Efisien*, *Kompilasi Hukum Bisnis*. Bandung: Fakultas Hukum Universitas Padjadjaran, 2012.
- H.R., Ridwan. *Hukum Administrasi Negara Edisi Revisi*. Depok: Rajawali Pers, 2020.
- Harahap, M. Yahya. *Perlawanan Terhadap Eksekusi Grose Akta Serta Putusan Pengadilan dan Arbitrase dan Standar Hukum Eksekusi*. Bandung: PT. Citra Aditya Bakti, 1996.

¹⁹ Idris Talib, Bentuk Putusan Penyelesaian Sengketa Berdasarkan Mediasi, *Lex Et Societatis*: Fakultas Hukum Universitas Sam Ratulangi 1, no.1, (Maret 2013):28.

- Ismail, Atika dan Eni Suarti. "Analisis Perlindungan Konsumen pada Lembaga Alternatif Penyelesaian Sengketa (LAPS) Sektor Jasa Keuangan di Indonesia". *Jurnal Sol Justicia: Magister Ilmu Hukum Universitas Kader Bangsa* 4, no.1 (Juni 2021):34-44. <https://garuda.kemdikbud.go.id/documents/detail/2299716>.
- Keuangan, Otoritas Jasa. *Strategi Perlindungan Konsumen Keuangan 2013-2027*. Jakarta: Otoritas Jasa Keuangan, 2017.
- Khairandy, Ridwan. *Itikad Baik dalam Kebebasan Berkontrak, Cetakan ke-2*. Jakarta: Universitas Indonesia, 2004.
- Kharisma, Dona Budi. "Tantangan LAPS Sektor Jasa Keuangan sebagai Alternatif Penyelesaian Sengketa di Sektor Financial Technology". *Jurnal Hukum Prespektif: Fakultas Hukum Universitas Wijaya Kusuma Surabaya* 26, no. 3 (September 2021): 216-220. <http://www.jurnal-perspektif.org/index.php/perspektif/article/view/810>.
- Mahkamah Agung Republik Indonesia. "Laporan Penelitian Alternatif Dispute Resolution (Penyelesaian Sengketa Alternatif) dan Court Connected Dispute Resolution (Penyelesaian Sengketa yang Terkait Pengadilan)", Jakarta: Mahkamah Agung RI, 2000.
- Marzuki, Peter Mahmud. *Pengantar Ilmu Hukum, Cetakan ke-6*. Jakarta: Kencana Prenada Media, 2014.
- Muhammad, Abdulkadir. *Hukum Perdata Indonesia*. Bandung: PT Citra Aditya Bakti, 2019.
- Mulyana, Dedy. "Kekuatan Hukum Hasil Mediasi di Luar Pengadilan Menurut Hukum Positif". *Wawasan Yuridika: Sekolah Tinggi Hukum Bandung* 3, no. 2, (September 2019): 177-198. <https://ejournal.sthb.ac.id/index.php/jwy/article/view/224>.
- Otoritas Jasa Keuangan. "Survey Nasional Literasi dan Inklusi Keuangan 2019". Last modified 1 Desember, 2020. <https://www.ojk.go.id/id/berita-dan-kegiatan/publikasi/Pages/Survei-Nasional-Literasi-dan-Inklusi-Keuangan-2019.aspx>.
- Rahmawati, Ema dan Rai Mantili. "Penyelesaian Sengketa Melalui Lembaga Alternatif Penyelesaian Sengketa di Sektor Jasa Keuangan di Indonesia". *Jurnal PJIH: Fakultas Hukum Universitas Padjadjaran* 2, no. 2 (2016): 240-260. <http://jurnal.unpad.ac.id/pjih/article/view/9546/5399>
- Soemantri, Sri. *Bunga Rampai Hukum Tata Negara Indonesia*. Bandung: Alumni, 1992.

Talib, Idris. “Bentuk Putusan Penyelesaian Sengketa Berdasarkan Mediasi”. *Lex Et Societatis: Fakultas Hukum Universitas Sam Ratulangi* 1, no. 1, (Maret, 2013): 28.
<https://ejournal.unsrat.ac.id/v3/index.php/lexetsocietatis/article/view/1295>.

