

Kewenangan Badan Penyelesaian Sengketa Konsumen (BPSK) Dalam Melaksanakan Penyelesaian Sengketa Konsumen di Sektor Jasa Keuangan = The Authority of Dispute Settlement Board (BPSK) in Accomplishing Consumer Dispute Resolution in the Financial Service Sector

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Abstrak

Kewenangan Badan Penyelesaian Sengketa Konsumen (BPSK) dalam melaksanakan penyelesaian sengketa konsumen di sektor jasa keuangan. Jenis penelitian yuridis normatif dengan Socio Legal Research. Setelah terbentuknya Lembaga Alternatif Penyelesaian Sengketa (LAPS) melalui Peraturan Otoritas Jasa Keuangan (POJK) di sektor jasa keuangan, atas amanat OJK yang didasari oleh Undang-Undang Otoritas Jasa Keuangan, tidak menghilangkan kewenangan BPSK dalam melaksanakan penyelesaian sengketa di sektor jasa keuangan, karena pilihan atas lembaga mana yang digunakan dalam penyelesaian sengketa, baik BPSK ataupun LAPS merupakan pilihan sukarela para pihak dan atas kesepakatan para pihak yang bersengketa. Dari analisis 7 (tujuh) putusan, mayoritas hakim menolak permohonan keberatan pemohon, karena terdapat hubungan hukum berupa perjanjian pembiayaan. Debitur telah wanprestasi, menurut hakim wanprestasi merupakan kewenangan Peradilan Umum bukan BPSK. Selain itu, terhadap beberapa putusan hakim tidak menerapkan hukum dengan baik, hakim tidak konsisten dalam menjatuhkan putusan, dimana para pihak telah sepakat menentukan pilihan lembaga penyelesaian sengketa, namun hakim dalam pertimbangan hukumnya tidak mencantumkan pertimbangan tersebut. Oleh karena itu dikatakan bahwa BPSK memiliki wewenang dalam menangani sengketa di sektor jasa keuangan akibat ingkar janji/wanprestasi karena UUPK tidak menentukan batas-batas sengketa apa saja yang menjadi kewenangan BPSK, sepanjang terkait dengan sengketa atas peredaran barang dan jasa. Seharusnya, pemerintah merevisi pasal di UUPK terkait sengketa apa saja yang menjadi kewenangan BPSK, agar tidak terjadi disharmonisasi terhadap perundang-undangan yang ada. Hakim sbelum menjatuhkan putusan sebaiknya membuat pertimbangan hukum dengan benar dan bersikap konsisten dalam menjatuhkan putusan.

.....The Dispute Settlement Board (BPSK) in carrying out consumer dispute resolution in the financial services sector. This type of juridical normative research with Socio Legal Research. After the establishment of the Alternative Dispute Resolution Institution (LAPS) through the Financial Services Authority Regulation (POJK) in the financial services sector, as mandated by the OJK which is based on the Financial Services Authority Law, it does not diminish the authority of BPSK in carrying out dispute resolution in the financial services sector, by choice. on which institution is used in dispute resolution, either BPSK or LAPS is a voluntary choice of the parties and on the agreement of the parties in dispute. From the analysis of the 7 (seven) decisions, the majority of judges rejected the petitioner for objection, because there was a legal relationship in the form of a financing agreement. The debtor has defaulted, according to the judge, default is the authority of the General Court, not BPSK. In addition, for several judges' decisions that did not apply the law properly, the judges were inconsistent in making decisions, where the parties had agreed to determine the choice of dispute settlement institutions, but the judges in their legal considerations did not include these considerations. Therefore, it is said that BPSK has the authority to

handle disputes in the financial services sector due to broken promises /or defaults because the UUPK does not determine the boundaries of what disputes are the authority of BPSK, as long as they are linked to disputes over the circulation of goods and services. The government should have revised the articles in the UUPK regarding any disputes that fall under the authority of BPSK, so that there is no disharmony with existing laws. Before making a decision, the judge should make proper legal considerations and be consistent in making the decision.