

Analisis Penerapan Online Dispute Resolution Sebagai Mekanisme Penyelesaian Sengketa Konsumen di Lembaga Alternatif Penyelesaian Sengketa Sektor Jasa Keuangan = Analysis on the Implementation of Online Dispute Resolution As Consumer Dispute Settlement Mechanism in The Indonesia Financial Services Dispute Resolution Center (LAPS SJK)

Febri Indriani, author

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Abstrak

Penyelesaian sengketa secara konvensional yang dilakukan melalui aktivitas tatap muka dinilai menyulitkan konsumen untuk menuntut kerugian yang dialami setelah menggunakan barang atau jasa. Posisi konsumen dan pelaku usaha yang berjauhan menyulitkan kedua belah pihak karena harus menempuh jarak ke lokasi penyelesaian sengketa. Online Dispute Resolution menjadi solusi yang memungkinkan para pihak untuk menyelesaikan sengketa meskipun berada di lokasi yang berbeda. Penelitian ini bertujuan untuk mengetahui perkembangan Online Dispute Resolution di Indonesia dan menganalisis penerapannya di LAPS SJK. Indonesia belum memiliki peraturan perundang-undangan yang secara khusus mengatur Online Dispute Resolution, namun keberadaan Online Dispute Resolution telah tersebar di berbagai peraturan perundang-undangan. Online Dispute Resolution juga telah diterapkan dalam proses penyelesaian sengketa, antara lain dalam mediasi di Pengadilan, melalui layanan pengaduan konsumen di Kementerian Perdagangan, serta dalam penyelesaian sengketa yang diselenggarakan LAPS SJK. Sebagai perbandingan penerapan Online Dispute Resolution, Belanda memiliki platform terintegrasi yang memungkinkan pihak untuk melakukan pengaduan dari berbagai sektor sengketa. Selain itu, Belanda juga memiliki platform di beberapa sektor yang terintegrasi dengan platform Online Dispute Resolution milik Uni Eropa. Adapun China menjadi negara pertama yang menerapkan Online Dispute Resolution di Asia melalui CIETAC. Khusus berkaitan dengan sengketa konsumen, Brasil juga telah memiliki platform Online Dispute Resolution yang membantu konsumen dalam melakukan pengaduan dan menyelesaikan sengketa. Dalam penerapannya di LAPS SJK, Online Dispute Resolution terdapat dalam proses penyelesaian sengketa melalui arbitrase, mediasi, dan pendapat mengikat. Secara teknis, proses penyelesaian sengketa di LAPS SJK dilaksanakan secara elektronik, namun masih dimungkinkan untuk menyelenggarakan penyelesaian sengketa secara konvensional atau secara hybrid sesuai persetujuan para pihak.

.....Conventional dispute resolution, which is carried out through face-to-face activities, is considered difficult for consumers to claim their loss after using goods or services. The position of consumers and businesses far apart makes it difficult for both parties because they have to travel the distance to the location of the dispute settlement. Online Dispute Resolution is a solution that enables parties to resolve disputes even though they are in different locations. This research aims to understand the development of Online Dispute Resolution in Indonesia and its implementation in the LAPS SJK. Indonesia does not yet have laws and regulations that specifically regulate Online Dispute Resolution, but the existence of Online Dispute Resolution has been mentioned across various laws and regulations. Online Dispute Resolution has also been implemented in the dispute resolution process, including mediation in courts, through the consumer complaint service at the Ministry of Trade, as well as in dispute resolution organized by LAPS SJK.

Compared to the implementation of Online Dispute Resolution, the Netherlands has an integrated platform that allows parties to submit complaints from various dispute sectors. In addition, it also has several sectors whose platforms are integrated with the European Union's Online Dispute Resolution platform. Meanwhile, China became the first country to implement Online Dispute Resolution in Asia through CIETAC. Regarding consumer dispute settlement, Brazil has an Online Dispute Resolution platform that helps consumers to complain and resolve disputes. In the LAPS SJK, Online Dispute Resolution is contained in the process of resolving disputes through arbitration, mediation, and binding advice. Technically, the dispute settlement process at the SJK LAPS is carried out electronically. However, it is still possible to carry out conventional or hybrid dispute resolution according to the parties' agreement.