

COMPLETION DISPUTE SERVICE CONSTRUCTION THROUGH DISPUTE BOARD

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Abstract

Disputes in construction services often become obstacles to effective and efficient project implementation. Dispute Boards offer a more proactive and preventive approach to conflict resolution than traditional litigation or arbitration methods. This study evaluates the role of Dispute Boards as an alternative mechanism for resolving disputes in construction projects, focusing on their effectiveness, implementation constraints, and strengthening of regulations supporting this mechanism in Indonesia.

Using a normative legal approach and empirical analysis, this study reveals that the Dispute Board is able to prevent conflict escalation through quick and consensus-based decisions, thus minimizing the risk of project delays. However, its implementation still faces challenges such as minimal recognition in national regulations, relatively high costs, and lack of understanding of this mechanism by stakeholders. This study recommends the need for regulatory updates, professional capacity building, and wider socialization to maximize the implementation of the Dispute Board in resolving construction disputes.

Keywords: *dispute resolution, construction services, Dispute Board, construction law.*

Abstrak

Perselisihan dalam layanan konstruksi sering menjadi hambatan bagi pelaksanaan proyek yang efektif dan efisien. Dispute Board menawarkan pendekatan yang lebih proaktif dan preventif terhadap penyelesaian konflik dibandingkan metode litigasi atau arbitrase tradisional. Studi ini mengevaluasi peran Dispute Board sebagai mekanisme alternatif untuk menyelesaikan perselisihan dalam proyek konstruksi, dengan fokus pada efektivitasnya, kendala pelaksanaannya, dan penguatan peraturan yang mendukung mekanisme ini di Indonesia. Dengan menggunakan pendekatan hukum normatif dan analisis empiris, studi ini mengungkapkan bahwa Dispute Board mampu mencegah eskalasi konflik melalui keputusan cepat dan berbasis konsensus, sehingga meminimalkan risiko keterlambatan proyek. Namun, pelaksanaannya masih menghadapi tantangan seperti pengakuan minimal dalam peraturan nasional, biaya yang relatif tinggi, dan kurangnya pemahaman terhadap mekanisme ini oleh para pemangku kepentingan. Studi ini merekomendasikan perlunya pembaruan peraturan, peningkatan kapasitas profesional, dan sosialisasi yang lebih luas untuk memaksimalkan pelaksanaan Dispute Board dalam menyelesaikan perselisihan konstruksi.

Kata Kunci: *penyelesaian sengketa, layanan konstruksi, Dispute Board, hukum konstruksi*

INTRODUCTION

Currently, Indonesia is facing the phenomenon of development equality. According to data collected through the Central Statistics Agency, the rapid development in Indonesia has made Construction Services one of the sectors that has

had a major influence on economic growth in Indonesia. The Construction Sector has given contribution as big as 9.86 % on year 20 23 to Product Gross Domestic (GDP) Indonesia. Body Center Statistics Also state that with carrying out equitable development, this also has a big influence to other like equalization resilience food, give access Which easy to procure goods and services, and increase the attractiveness of the tourism sector (Statistics, 2023).

Construction services are construction consulting services and/or construction work carried out by construction service providers. Construction services arise due to the meeting of two interests, namely from service users and service providers. Because of these interests, they can promise and agree to the services they want by legally binding themselves through an agreement or work contract. In terms of the contract in question is the construction work contract which is the entire contract document that regulates the legal relationship between service users and service providers in the implementation of construction services.

In the implementation of construction services, in addition to providing quite a lot of positive impacts, there is also a fairly large risk if a dispute occurs in the construction process. Which if not handled immediately, this will cause various kinds of losses for both parties. both parties from the loss of costs, time, productivity, as well as popularity and relations. Therefore, the settlement of construction disputes needs to be handled quickly, economically in terms of financing and does not cause bad relations between each other.

The problem regarding construction service disputes has been stated in the Construction Services Law Number 2 of 2002 2017 which states that the parties are obliged to list choice settlement dispute construction. So that if during the construction process a dispute occurs at the same time so for party No need Confused For finish the problem as well as can overcome in a way fast And efficient. In solve the problem in the field service construction, Constitution Service Construction Number 2 years 2017 has also listed several ways that can be taken to resolve this problem. a case namely through mediation, conciliation, arbitration, and the party can make board dispute.

METHODS

RESULTS & DISCUSSION

A. Dispute Construction

Construction Dispute is a case that arises from the implementation of a contract regarding service work construction between service users and service providers. Construction Disputes arise as a result of the existence of different understanding will contract Which has agreed. As a result, This difference of opinion can cause problems that can impact the construction process.

Reason the occurrence dispute construction That Alone can obtained from external factors and internal factors. External factors themselves are factors Which originate from outside Which where factor That No can changed And influenced. External factors that can cause legal disputes include: unstable political, economic and security factors, changes in legal regulations, environmental factors, and unfavorable weather factors.

Besides factor external there is Also factor internal Which can be the cause will existence a dispute. Internal factors itself namely factors originating from the parties who have agreed to a contract, namely the service user and the service provider. Examples of causes of disputes through factor internal namely: difference understanding will contract Which has been promised as well as on implementation work Which No in accordance with which are expected Good from aspect technical, aspect time, as well as aspect cost (Hidayat & Gunawan, 2013).

Reason the emergence dispute service construction can originate from all aspects, remember will complexity from service construction That Alone. However generally reason dispute construction tend more Lots caused by human factors themselves. For example, one of the parties concerned cannot fulfill their responsibilities as stated in the employment contract, incompetent workers, and workers Which No professional in operate his job.

Can We know Also that A contract Work become main guidelines in operate A work. If maker contract not being careful in making a contract, such as being careless in compiling it sentence so that become multi-interpretable, or Contents from contract that is less complete matter This naturally very allow the occurrence dispute later on day. Even although contract has made with very

careful, No close possibility will existence dispute in Then day.

Objects problem Which disputed by for party in construction services, namely regarding changes in quality, changes in price, and changes in costs from what has been previously agreed upon. If the dispute is successfully handled, the agreement will be changed and the contract will be renewed. However, if both parties do not reach an agreement, the dispute resolution must be carried out through the assistance of a third party.

Therefore, it is necessary to be careful in making contracts, which includes an anticipation to overcome if a problem occurs in the future. In general, there are two ways to resolve a dispute, namely through litigation and non-litigation. Resolving a dispute through litigation means resolving a problem through court. Temporary through track non litigation meaning finish a problem outside court.

Construction Services Law Number 2 of 2017 has also provided directions about channel settlement a dispute. Which where in Constitution the tend support settlement dispute through track non-litigation. Matter This proven with No listed the phrase 'court' in the article that regulates dispute resolution. However No close possibility If for party want their disputes to be brought to court, considering that this has been stated in the explanation of the article which reads " ... dispute resolution is carried out through, among other things, deliberation, mediation, arbitration, or the courts."

Will but when observed back, content from law the said has provided limitations on the method of dispute resolution in a limited manner Which recommended. There is a number of method in overcome construction dispute Which listed in chapter 88 paragraph (3) namely through mediation, conciliation, and arbitration. Which in paragraph (4) of the same article is also explained that method mediation And conciliation can replaced with formation Board Dispute.

B. Completion Dispute Construction through Board Dispute

1. Board Dispute

In general, dispute resolution is divided into two mechanisms, namely through Litigation and Non-Litigation. However, considering that Construction Services involve many parties, it is highly recommended to take

a settlement dispute in inside through track Non Litigation. this is for shorten the time settlement problems, save costs required to handle disputes, and seek solutions. road middle For finish problem For achieve *a win-win solution*.

There are several non-litigation paths that can be taken in settlement dispute service construction, namely: Mediation, Conciliation, Board Dispute, And Arbitration. However to other options For resolving construction disputes through the formation of a Supervisory Board. The supervisory board can replace dispute resolution through Mediation and Conciliation. This is done to speed up the dispute resolution process, reduce cost Which must issued, as well as prioritize resolution the dispute that each other profitable for for disputing parties.

Board Dispute as has explained in Construction Services Law Number 2 of 2017, namely a team formed based on agreement for party since binding Service Construction to prevent And mediate dispute Which happen in in implementation contract Work construction. 6 With existence board dispute Which formed since before contract Work run, matter This seen can minimize potential the occurrence dispute in Then day. In matter This It means The dispute council has been formed long before the dispute occurs, so it is hoped that the Dispute Council can better understand the characteristics and conditions that occur in the field so that it can mediate the disputes that occur as fairly as possible and provide solutions that are mutually beneficial to the parties.

On basically Board Dispute formed based on two reason:

- a. For prevent the occurrence dispute
- b. As alternative settlement dispute

The dispute board can carry out its duties to prevent disputes from occurring, namely by obtaining contract documents, obtaining construction specifications and observing the performance of both parties. The dispute board can also do observations in a way periodic for the sake of guard good communication between the parties and providing recommendations if necessary so that disputes do not occur in the future. However, if it is prevention has done and still there is a dispute in Then day, then Board

Dispute Also can become mediator for for party who are in dispute.

2. Mechanism Completion Dispute Through Board Dispute

Board Dispute consists of from One until three person Which chosen Good from both the service user and the service provider. With the note that the selected dispute board must be neutral and not allowed to take sides. The chairman of the dispute board is also selected based on the agreement of the parties therein.

Board dispute must involved Also since process making contract between the service user and the service provider. This is to minimize any disputes in the future and to ensure that in contract Which has agreed by for party has listed matters concerning dispute resolution if at any time there is a difference of opinion between both of them. So that if dispute happen in Then day then the Dispute Council has a strong legal position as a mediator that has been agreed upon by both parties to the dispute and can carry out its duties. as a mediator with as best as possible.

In the event of a dispute, both service users and service providers have the right to ask for advice from the Dispute Council if a dispute occurs. Then, procedurally, the Dispute Council will hold a hearing, present witnesses, ask questions, and give recommendation in accordance with time Which agreed by second split party, Unlike mediation, conciliation, as well as arbitration Which completion time is limited.

The decision rendered by the Dispute Board is in the form of a recommendation. Which where in matter This nature No tie. If approved by both parties, it is necessary to make a contract addendum, namely the addition of articles to the contract that have been mutually agreed upon at the beginning. This is done so that the decision has permanent legal force and is valid as Constitution for party Which concerned.

CONCLUSIONS

In accordance with What Which has explained previously, Service Construction is A service Which own level complexity Which tall. Matter This can be proven by the variety of work involved. Therefore, it is very possible that a dispute will occur during

construction. Whether the dispute originate from factor external and also factor internal.

To resolve construction disputes can be done in two ways, namely through Litigation and Non-Litigation. However, if the dispute is resolved through litigation, it will take a lot of time, money, and work that should be done. can abandoned during dispute the Not yet completed. So through Constitution Service Construction, settlement dispute more directed to be resolved through Non-Litigation. Dispute resolution through Non-Litigation is also diverse, there is mediation, conciliation, and arbitration. Plus in the Law Service Construction Number 2 year 2017 has add alternative settlement another is through the Dispute Council.

The Dispute Board is considered to be a better alternative dispute resolution than conciliation, mediation, and arbitration. This is because the Dispute Board The dispute was formed long before the dispute occurred, which is why considered to be able to minimize the occurrence dispute in Then day And board dispute can more understand the positions of the disputing parties. Second, the resolution of construction disputes No restricted time, No like conciliation, mediation, as well as arbitration which is limited in completion time. So that construction work can continue to run although dispute middle discussed the solution.

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