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# Analysis of the Consumer Dispute Settlement Agency (BPSK) Decisions in the Objection Process at the Lhokseumawe District Court (A Case Study of Decision No. 3/Pdt.Sus-BPSK/2022/PN Lsm)

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**ABSTRACT**

This study aims to analyze the legal considerations of the Lhokseumawe District Court judge regarding objections to the decision of the Consumer Dispute Settlement Agency (BPSK) in Case Number 3/Pdt.Sus-BPSK/2022/PN Lsm, as well as to review the legal consequences of that decision on the validity and effectiveness of the BPSK institution. This research uses a normative juridical method with a statutory approach and case approach. The results show that the judge in this case placed greater emphasis on the absolute authority of the BPSK institution rather than consumer protection aspects, which resulted in weakening the effectiveness of the BPSK as a fast, simple, and low-cost consumer dispute resolution body.

Keywords: BPSK, Objection, District Court, Consumer Dispute, Legal Certainty.

## 1. INTRODUCTION

Dispute resolution can basically be pursued through two channels: litigation (through the court) and non-litigation (outside the court). The litigation route is often considered less effective because of its lengthy, complex process and high costs. Therefore, an alternative dispute resolution outside the court has developed, which is simpler, faster, and less costly, as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution (UUAAPS).[1]

[1] Sulaiman, S., Mediation as an Alternative Dispute Resolution Outside the Court, Journal, Faculty of Law, Malikussaleh University, 2016, p. 2.

One of the institutions involved in non-litigation dispute resolution is the Consumer Dispute Settlement Agency (BPSK), which was established based on Law Number 8 of 1999 concerning Consumer Protection (UUPK). BPSK has the authority to resolve disputes between consumers and business actors through arbitration, mediation, and conciliation. According to Article 54, paragraph (3) of the UUPK, BPSK's decisions are final and binding. However, this provision becomes problematic because Articles 56 and 58 of the UUPK still allow dissatisfied parties to file objections with the district court, even up to the cassation level.[2]

The condition causes legal uncertainty and has the potential to weaken the function of the Consumer Dispute Settlement Agency (BPSK) as a fast and efficient dispute resolution institution. The problem becomes more complex because the Consumer Protection Law (UUPK) does not regulate in detail the mechanism of objections to BPSK decisions, while the Arbitration and Alternative Dispute Resolution Law (UUAAPS) only recognizes the term "cancellation," not objections. To fill this legal gap, the Supreme Court issued Supreme Court Regulation (PERMA) Number 1 of 2006 concerning Procedures for Filing Objections to BPSK Decisions, but its implementation has led to varied interpretations.[3]

One case that reflects this problem is the Lhokseumawe District Court Decision Number 3/Pdt.Sus-BPSK/2022/PN Lsm, where the judge annulled the BPSK decision because BPSK is not authorized to handle banking disputes. Based on the judge's considerations in the Lhokseumawe District Court Decision Number 3/Pdt.Sus-BPSK/2022/PN Lsm, it can be seen that the judge only considered the authority to adjudicate held by BPSK, without paying attention to the limitations set forth by Article 6 paragraph (3) of Supreme Court Regulation Number 1 of 2006 concerning Procedures for Objections to BPSK Decisions in conjunction with Article 70 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. In fact, the limitation in the objection process is intended to preserve the final and binding nature of BPSK's decisions.

The judge's consideration sparked controversy because it did not take into account an important element in filing objections to BPSK decisions, namely the limitative requirements in accordance with the provisions restricting the grounds for objections as regulated in Supreme Court Regulation Number 1 of 2006 in conjunction with Article 70 of the Arbitration and Alternative Dispute Resolution Law. Therefore, it is important to re-examine the legal basis, authority, and limitations on filing objections to BPSK decisions to guarantee legal certainty and strengthen BPSK's role as an effective and fair alternative dispute resolution institution.

## 2. LITERATURE REVIEW

### 2.1 Definition and Scope of Consumer Disputes

Consumer disputes are a form of legal conflict that arises between consumers and business actors due to violations of the rights and obligations of each party. According to Winardi, a dispute is basically a conflict between individuals or groups who have interests in a certain object and which results in legal consequences between them. In the context of consumer protection, disputes may arise because consumers suffer losses due to goods and/or services that do not conform to agreements or statutory provisions.[4]

Law Number 8 of 1999 concerning Consumer Protection (UUPK) is the main legal basis

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[2] Rimanda, R. "The Existence of the Consumer Dispute Settlement Agency (BPSK) as a Quasi-Judicial Institution in Indonesia," Journal, Bina Mulia Hukum, 2019, Vol. 4, No. 1, pp. 17-34.

[3] Rosita, "Alternatives in Dispute Resolution (Litigation and Non-Litigation)," Al-Bayyinah of Islamic Law, Vol. I No. 2, December 2017, p. 100.

[4] Herbet Sodugaon & Padimun Lumban Tobing, Analysis of the Legislative Obligation of the DPR and Government in Following Up on the Constitutional Court Decision No. 90/PUU-XXI/2023, IBLAM Law Review, Vol. 4, No. 3 (2024). **https://doi.org/10.52249/ilr.v4i3.447**

regulating the resolution of disputes between consumers and business actors in Indonesia. UUPK grants rights to consumers as stipulated in Article 4, such as the right to comfort, safety, and security in consuming goods and/or services, as well as the right to have their opinions and complaints heard regarding the goods and/or services used. Business actors are also given rights and obligations as stated in Articles 6 and 7 of UUPK, to ensure a balance between the interests of consumers and business actors in commercial activities.

Consumer disputes can be resolved through two channels, namely the litigation route and the non-litigation route. The litigation route is conducted through the courts, while the non-litigation route is carried out through mediation, conciliation, or arbitration mechanisms facilitated by a special institution, namely the Consumer Dispute Settlement Agency (BPSK). The presence of BPSK is a concrete form of the exercise of consumers' constitutional rights to obtain justice quickly and at low cost outside the general court mechanism.

### 2.2 Consumer Dispute Settlement Agency (BPSK)

The Consumer Dispute Settlement Agency (BPSK) is an institution established by the government based on the mandate of Article 49 of the Consumer Protection Law (UUPK). This article affirms that BPSK is tasked with handling and resolving consumer disputes through conciliation, mediation, or arbitration, as well as supervising the inclusion of standard clauses that harm consumers. Further provisions regarding the establishment, duties, and working procedures of BPSK are regulated in the Minister of Trade Regulation Number 06/M-DAG/PER/2017 concerning the Consumer Dispute Settlement Agency.

Institutionally, BPSK has the status of a quasi-judicial body that has the authority to examine and decide disputes between consumers and business actors. BPSK's decisions are final and binding as stated in Article 54 paragraph (3) of the Consumer Protection Law (UUPK). However, Article 56 paragraph (2) of the UUPK also provides room for parties to file objections to BPSK decisions to the District Court. This provision often raises legal debate regarding the consistency of the "final and binding" nature of BPSK decisions, which, on the one hand, is guaranteed by law, but on the other hand can be annulled by the court.

In practice, BPSK often faces obstacles both institutionally and in the implementation of its decisions. Many business actors do not comply with BPSK's decisions, arguing that BPSK lacks the authority to resolve disputes in certain sectors such as banking, insurance, or other financial services. This condition creates a legal dilemma because, on one hand, BPSK is established to provide broad consumer protection, but on the other hand, its authority is limited by more specific sectoral regulations.

### 2.3 Objection to BPSK Decision

Objections to BPSK decisions are regulated in Article 56 paragraph (2) of the Consumer Protection Law (UUPK) and reinforced by the Supreme Court Regulation (PERMA) Number 1 of 2006. According to these provisions, parties dissatisfied with a BPSK decision may file an objection to the District Court within a maximum of 14 working days from the date the decision is announced or received by the parties. This objection process is essentially not an appeal but a re-examination of the legality and authority of BPSK in resolving disputes.

PERMA Number 1 of 2006 Article 6 paragraph (3) states that the court may only annul a BPSK decision if it meets the criteria for annulling arbitration decisions as outlined in Article 70 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. This means that objections must be based on formal juridical aspects. This provision indicates that BPSK's position is legally strong, but in practice, it is often ignored by the judiciary when considering objections filed by business actors.

### 2.4 Legal Basis and Relevant Theory

The theoretical foundation of this research is based on the theory of legal protection and the theory of legal certainty. According to Philipus M. Hadjon, legal protection for the people is a form of recognition of basic human rights granted by the state to protect individual interests from

arbitrary actions. In the context of consumer protection, BPSK serves as a state instrument to ensure justice for consumers through a fast and efficient dispute resolution mechanism.[5]

The theory of legal certainty put forward by Gustav Radbruch states that the law must be able to provide guarantees of stability and clarity of rules. When an institution such as BPSK has legal authority clearly regulated by law, its decisions should be respected and executed by all parties, including judicial bodies. If BPSK decisions can be easily annulled by the courts without strong legal grounds, the principle of legal certainty will be undermined, and public confidence in the consumer dispute resolution system will decline.[6]

Thus, this literature review shows that normatively, the position of BPSK as a consumer dispute resolution institution already has a strong legal basis. However, there are still problems in its implementation, especially when courts are inconsistent in interpreting the provisions on objections to BPSK decisions. This is one of the main issues in this research.

## 3. RESEARCH METHOD

This research uses a normative juridical approach, which is a legal research method that emphasizes the study of applicable legal norms and their application in concrete cases. This approach is used because the research focuses on analyzing legislation that regulates the authority of the Consumer Dispute Settlement Agency (BPSK) and the objection mechanism in District Courts as stipulated in Law Number 8 of 1999 concerning Consumer Protection, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, and Supreme Court Regulation Number 1 of 2006.

### 3.1 Research Approach

In this normative legal research, several approaches are used, namely:

#### 3.1.1 Legislative Approach (Statute Approach)

This approach is carried out by examining various legal provisions relevant to the issue being studied, such as the Consumer Protection Law (UUPK), the Law on the Settlement of Consumer Disputes (UUAAPS), and Supreme Court Regulation (PERMA) No. 1 of 2006. The analysis is conducted to determine the extent to which these legal provisions provide a basis for the authority of BPSK and the procedures for objections to its decisions.

#### 3.1.2 Conceptual Approach

This approach is used to understand the basic concepts related to consumer protection, the authority of quasi-judicial institutions, and the general principles in non-litigation dispute resolution. Through this approach, the author analyzes the extent to which BPSK carries out its functions in accordance with the principles of being fast, simple, and cost-effective.

#### 3.1.3 Case Approach

This approach is conducted by examining a concrete case, namely the Lhokseumawe District Court Decision No. 3/Pdt.Sus-BPSK/2022/PN Lsm, as the object of study to observe how legal norms are applied by the judge in the process of filing objections to a BPSK decision.

### 3.2 Types and Sources of Legal Materials

The legal materials used in this study consist of:

1. Primary legal materials, namely laws and regulations directly related to the research object, including:

[5] Hadjon, P. M. (1987). Legal protection for the people in Indonesia: a study of its principles, handling by courts within the general judiciary, and the establishment of administrative courts. Bina Ilmu.

[6] Nau, Y. (2022). Legal Position of a Notarial Deed that Does Not Fulfill the Elements of an Agreement in the Concept of Legal Certainty (Study of Cooperation Agreement Deed Number 86 dated June 28, 2008, made by Notary Yoshephina Vestha Raya, SH) (Master's thesis, Sultan Agung Islamic University (Indonesia)).

a) Law No. 8 of 1999 concerning Consumer Protection;
b) Law No. 30 of 1999 concerning Arbitration and Alternative Dispute Resolution;
c) Supreme Court Regulation No. 1 of 2006 concerning Procedures for Filing Objections to BPSK Decisions.

2. Secondary legal materials, namely legal literature, books, scholarly journals, research results, and other academic works relevant to consumer protection and BPSK authority, such as the works of Aris Prio Agus Santoso, Susanti Adi Nugroho, and Gunawan Widjaja.
3. Tertiary legal materials, namely legal dictionaries and legal encyclopedias used to clarify the meanings of legal terms employed in the analysis.

### 3.3 Data Collection and Analysis Techniques

Data collection is carried out through library research by tracing, reading, and examining literature relevant to the research topic. All legal materials are collected, classified, and then analyzed qualitatively. Qualitative analysis is used to interpret legal provisions, principles, and doctrines in effect, as well as to relate them to the practice of BPSK's authority and the objection mechanism in the District Court.

The results of the analysis are then presented in a descriptive-analytical manner, by explaining, elaborating, and evaluating the application of existing legal norms in the case under study. This method is expected to provide a comprehensive overview of the legal considerations of judges in objection cases against BPSK decisions and their implications for legal protection for consumers

## 4. RESULTS AND DISCUSSION

### 4.1. General Overview of Case No. 3/Pdt.Sus-BPSK/2022/PN Lsm

Case No. 3/Pdt.Sus-BPSK/2022/PN Lsm originated from a consumer complaint filed by Hasballah, a resident of Lhokseumawe City, against Bank Aceh Syariah. The case began when the consumer experienced a loss of account balance amounting to IDR 54,500,000 without having conducted any transactions. After efforts to clarify the matter with the bank proved unsuccessful, Hasballah filed a complaint with the Lhokseumawe Consumer Dispute Settlement Agency (BPSK).

During the dispute resolution process at BPSK, both parties were called for mediation; however, no agreement was reached. Based on the examination, the BPSK panel concluded that Bank Aceh Syariah had been negligent in safeguarding customer data, which resulted in the loss of the account balance. Consequently, BPSK Lhokseumawe issued a decision requiring Bank Aceh Syariah to compensate the consumer for the loss of IDR 54,500,000 and to improve its electronic transaction security system.

However, Bank Aceh Syariah did not accept the decision and filed an objection with the Lhokseumawe District Court, as regulated in Article 56 paragraph (2) of Law No. 8 of 1999 on Consumer Protection and Article 6 paragraph (1) of Supreme Court Regulation No. 1 of 2006. In its objection, the bank argued that BPSK did not have absolute authority to adjudicate disputes related to financial institutions, as banking disputes fall under the supervisory authority of the Financial Services Authority (OJK) and Bank Indonesia

Pengadilan The Lhokseumawe District Court subsequently examined the objection and ultimately annulled the BPSK Lhokseumawe decision, considering that the dispute between Hasballah and Bank Aceh Syariah falls under the category of banking disputes, rather than ordinary consumer disputes. According to the panel of judges, BPSK does not have the authority to resolve this case because its jurisdiction is limited to relationships between consumers and business actors in the provision of goods or services in general trade. This decision by the Lhokseumawe District Court has sparked debate among legal scholars and consumer protection practitioners. Some argue that the judges have narrowed the scope of legal protection for consumers, while others believe the decision was in accordance, as it maintains the boundaries of jurisdiction between institutions

### 4.2. Legal Considerations of the Judges of the Lhokseumawe District Court

Legal considerations are an essential part of every court decision, as they reflect the judge's reasoning process in applying the law to the facts of the case. In the Lhokseumawe District Court Decision Number 3/Pdt.Sus-BPSK/2022/PN Lsm, the panel of judges based their considerations on two main aspects: the institutional authority (absolute competence) and the legal basis for the objection.

First, the judge determined that BPSK lacks the authority to examine and resolve disputes related to banking institutions. This consideration refers to the provisions of Law Number 21 of 2011 concerning the Financial Services Authority (OJK), which stipulates that dispute resolution in the financial services sector, including banking, falls under the jurisdiction of the OJK. Accordingly, the panel of judges concluded that BPSK exceeded its authority (ultra vires) when deciding cases involving Sharia banking transactions.

Second, the judge held that the objection filed by Bank Aceh Syariah met the formal requirements as stipulated in Article 6 paragraphs (2) and (3) of Supreme Court Regulation (PERMA) No. 1 of 2006, as it was submitted within 14 days and accompanied by valid legal reasons. The panel then assessed the substance of the BPSK decision, which mandated compensation, as an overreach of authority, and therefore concluded that the decision must be annulled.

However, upon closer examination, the judge's considerations in this case raise several legal issues. According to Article 56 paragraph (2) of the Consumer Protection Law (UUPK) in conjunction with Article 6 paragraph (3) of Supreme Court Regulation (PERMA) No. 1 of 2006, objections to BPSK decisions can only be filed in cases of procedural violations or errors in the application of the law, not due to differences in the assessment of the substantive matter. By annulling the BPSK decision based on authority, the judge seemingly overlooked the function of BPSK as a quasi-judicial body granted broad authority by law to resolve disputes between consumers and business actors.

Furthermore, this decision highlights the inconsistency in the application of law across courts in Indonesia. Several district courts in other regions, such as the Bandung District Court and the Surabaya District Court, in similar cases have upheld BPSK decisions, reasoning that banking transactions involving customer services fall within the legal relationship between business actors and consumers. This inconsistency indicates the need for clear jurisprudential guidelines to prevent legal uncertainty in the enforcement of BPSK decisions. Thus, it can be said that the legal considerations of the Lhokseumawe District Court judge do not fully reflect the principles of consumer protection as intended under the Consumer Protection Law (UUPK). The decision emphasizes the formal aspect of institutional authority rather than the substantive aspect of justice for consumers

### 4.3. Legal Consequences of the Lhokseumawe District Court Decision

Legal considerations are an essential part of every court decision, as they reflect the judges' thought process in applying the law to the facts at hand. In the Lhokseumawe District Court Decision No. 3/Pdt.Sus-BPSK/2022/PN Lsm, the panel of judges based their considerations on two main aspects: institutional authority (absolute competence) and the legal basis for the objection.

First, the judges determined that BPSK lacked the authority to examine and adjudicate disputes involving banking institutions. This consideration refers to the provisions of Law No. 21 of 2011 on the Financial Services Authority (OJK), under which the resolution of disputes in the financial services sector, including banking, falls within the OJK's domain. Consequently, the panel concluded that BPSK had exceeded its authority (ultra vires) when deciding cases involving Sharia banking transactions.

Second, the judges found that the objection filed by Bank Aceh Syariah met the formal requirements as stipulated in Article 6 paragraphs (2) and (3) of Supreme Court Regulation No. 1 of 2006, as it was submitted within 14 days and accompanied by valid legal reasons. The panel then assessed that the substantive decision of BPSK, which required compensation for the consumer,

constituted an overreach of authority, and therefore, the decision had to be annulled.

However, upon closer examination, the judges' considerations in this case raise several legal issues. According to Article 56 paragraph (2) of the Consumer Protection Law (UUPK) in conjunction with Article 6 paragraph (3) of Supreme Court Regulation No. 1 of 2006, objections to BPSK decisions can only be submitted in cases of procedural violations or errors in the application of law, not due to differences in substantive assessment. By annulling the BPSK decision based on authority, the judges appear to have overlooked BPSK's function as a quasi-judicial body granted broad authority by law to resolve disputes between consumers and business actors.

Moreover, this decision highlights inconsistencies in the application of the law among courts in Indonesia. Several district courts in other regions, such as the Bandung District Court and the Surabaya District Court, in similar cases, have upheld BPSK decisions on the grounds that banking transactions involving customer services fall within the legal relationship between business actors and consumers. This inconsistency indicates the need for clear jurisprudential guidance to prevent legal uncertainty in the enforcement of BPSK decisions.

Therefore, it can be concluded that the legal considerations of the Lhokseumawe District Court judges do not fully reflect the principle of consumer protection as intended under the UUPK. The decision emphasizes the formal aspect of institutional authority rather than the substantive aspect of justice for consumers

## 5. CONCLUSION AND RECOMMENDATIONS

### 5.1. Conclusion

Based on the results of the research and discussion conducted on the Lhokseumawe District Court Decision No. 3/Pdt.Sus-BPSK/2022/PN Lsm, several conclusions can be drawn as follows:

1. The legal considerations of the judges of the Lhokseumawe District Court in the objection case against the BPSK Lhokseumawe decision focused on the aspect of absolute institutional authority. The judges determined that BPSK lacked the authority to examine and adjudicate disputes involving financial institutions, such as banks. While this assessment is formally based on Law No. 21 of 2011 concerning the Financial Services Authority, substantively it does not fully reflect the principles of consumer protection as outlined in Law No. 8 of 1999 on Consumer Protection.
2. The legal consequence of this decision is the reduction of BPSK's function and authority as a dispute resolution body with final and binding decisions. The District Court's annulment of the BPSK decision has undermined the finality of the institution and diminished the effectiveness of consumer dispute resolution in a fast, simple, and cost-effective manner. This situation affects public confidence in BPSK and weakens consumers' ability to obtain legal protection.
3. From the perspective of the national legal system, this case demonstrates that synchronization between sectoral regulations and the Consumer Protection Law (UUPK) is still suboptimal. Differences in interpretation between the judiciary and BPSK create legal uncertainty in the practice of consumer dispute resolution. Therefore, regulatory reform is needed to clarify the limits of BPSK's authority so that the institution can function effectively in accordance with its intended purpose.

### 5.2. Recommendations

To the Supreme Court: It is advised to prepare guidelines or a Circular (SEMA) that provides a uniform interpretation of the implementation of Article 56 paragraph (2) of the Consumer Protection Law (UUPK) and Supreme Court Regulation No. 1 of 2006, to prevent disparities in district court decisions regarding objections to BPSK rulings. To the Government and the Ministry of Trade: It is necessary to revise the regulations governing BPSK, particularly those concerning the institutional relationship between BPSK and sectoral bodies such as the Financial Services

Authority (OJK), to prevent overlapping authority in consumer dispute resolution. To BPSK offices across Indonesia: It is important to enhance institutional capacity and the quality of human resources, including the legal expertise of its members, to ensure a clear understanding of the limits of authority and dispute resolution procedures so that the decisions rendered have strong legal force and legitimacy. To legal scholars and researchers: Further studies are needed regarding the legal position of quasi-judicial institutions such as BPSK within the Indonesian legal system, particularly in the context of dispute resolution in the financial services sector, to strengthen theoretical arguments for future reforms in consumer protection law.

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