IRJILS
Indonesian Research Journal in Legal Studies
Volume 01 No. 01, September 2022
e-ISSN:

Settlement of Business Contract Disputes through Arbitration Efforts in Civil Law Review

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ABSTRACT

This study aims to identify and analyze the principles, procedures, and obstacles in resolving business contract disputes through arbitration.

The results of the study found that dispute resolution through arbitration has the principle that the arbitration examination process is carried out in a closed manner, the parties have the same opportunity to have their opinions heard, and the parties are free to determine the arbitration program to be used. The dispute resolution process through arbitration will be carried out according to the rules and procedures of the arbitration institution chosen by the parties. Obstacles in the dispute resolution process through arbitration can come from various parties involved in the dispute resolution process through arbitration, such as arbitrators who are not in proper nature, arbitration institutions that are not widely known by the public, one of the disputing parties has bad faith, it can even come from the interference of the district court in the arbitration award.

Research suggestions are that there is a need to provide an understanding of the principles and procedures for resolving disputes through arbitration, it is necessary to have awareness from the parties concerned so that the dispute resolution process through arbitration can produce a win-win solution or so that the parties to the dispute get a mutual settlement and benefit the parties who are in dispute.

Keywords: *Dispute, Arbitration*

ABSTRAK

Penelitian ini bertujuan untuk mengetahui dan menganalisis prinsip dan prosedur penyelesaian sengketa kontrak bisnis melalui arbitrase serta untuk mengetahui dan menganalisis hambatan-hambatan dalam proses penyelesaian sengketa melalui arbitrase.

Hasil penelitian menemukan bahwa Penyelesaian sengketa melalui arbitrase ini memiliki prinsip yaitu bahwa dalam proses pemeriksaan arbitrase yang dilakukan secara tertutup sehingga dijamin kerahasiannya, para pihak yang mempunyai kesempatan yang sama untuk didengarkan pendapatnya, para pihak bebas menentukan acara arbitrase yang akan digunakan. Proses penyelesaian sengketa melalui arbitrase akan dilakukan menurut peraturan dan acara dari lembaga arbitrase yang dipilih oleh para pihak. Hambatan-hambatan dalam proses penyelesaian sengketa melalui arbitrase dapat berasal dari berbagai pihak yang terkait dalam proses penyelesaian sengketa melalui arbitrase seperti arbiter yang tidak bersifat sebagaimana semestinya, lembaga arbitrase yang belum dikenal secara luas oleh masyarakat, salah satu pihak yang bersengketa mempunyai iktikad tidak baik, bahkan juga dapat berasal dari keikutcampuran Pengadilan Negeri atas putusan arbitrase tersebut.

Saran Penelitian yaitu Perlu adanya pembekalan pemahaman tentang prinsip dan prosedur penyelesaian sengketa melalui arbitrase, Perlu adanya kesadaran dari para pihak yang bersangkutan agar proses penyelesaian sengketa melalui arbitrase ini dapat dilakukan penyelesaian yang dapat menghasilkan win-win solution atau agar para pihak yang bersengketa saling mendapat penyelesaian yang dapat menguntungkan para pihak yang bersengkata tersebut.

***Kata Kunci** : Sengketa, Arbitrase*

1. INTRODUCTION

Conflict in the business sector is something that is inherent in competition and cooperation, therefore the increasing potential for business disputes is something that is inevitable. Disputes arise for various reasons and problems, especially because of the conflict of interest between the parties. Disputes that arise between parties involved in various kinds of business or trade activities are called business disputes.

Business disputes are caused by business practices that are not in accordance with the contents of the business agreement contract, such as different opinions, different understandings, and different interpretations by the parties, and the non-fulfillment of the rights and obligations that have been agreed upon in the business contract (Endang Purwaningsih 2010). To overcome and resolve business disputes, a

contract or business agreement is drawn up such as a clause on dispute resolution procedures.

This is a logical consequence of the application of the principle of freedom of contract (freedom of contract), therefore the parties can determine their own procedures for resolving business disputes, which include a choice of law, choice of forum, and choice of domicile (Munir Fuady 2007).

As stipulated in the provisions of Article 1338 of the Civil Code (KUHPerdata) which confirms that:

"All agreements made in accordance with the law apply as law to those who make them. The agreement cannot be withdrawn other than by agreement of both parties, or for reasons determined by law. Approval must be carried out in good faith".

Many arbitration awards that have been decided by the arbitrator are later annulled by the district court. This will raise a question mark, whether the arbitration institution cannot be trusted or the court is used as a means to hinder the execution of the arbitral award. One example of a case that is interesting enough to attract the attention of the international community is the case between Pertamina versus Karaha Bodas Corporation (KBC).

The case was settled by international arbitration in Geneva. The Geneva Arbitration made a decision for Pertamina and PLN to pay compensation to KBC. Pertamina made legal efforts to cancel this arbitration award in

Swiss Court but rejected for not paying the deposit as required by Court. Then Pertamina took legal action again to cancel the arbitration award by submitting it to the Central Jakarta District Court. In its decision number 86/PN/Jkt.Pst/2002, 9 September 2002, the Central Jakarta District Court finally granted Pertamina's claim by canceling the international arbitration award, UNCITRAL, in Geneva, Switzerland. There are several reasons, among others, the appointment of the arbitrator was not carried out as agreed and the arbitrator was not appointed as desired by the parties based on the agreement, while Pertamina was not given proper notice regarding this arbitration and was not given the opportunity to defend itself. The arbitral tribunal has misinterpreted force majeure, so Pertamina should not be held responsible for something beyond its capabilities. In addition, the arbitral tribunal is considered to have exceeded its authority because it did not apply Indonesian law. In fact, it is Indonesian law that must be used according to the agreement of the parties. The arbitral tribunal only uses its own conscience based on *ex aequeo et bono* considerations. (Muhammad Asri 2022).

Another example of the annulment of an arbitral award is the South Jakarta District Court Decision No.270/Pdt.P/2009/Pn.Jkt.Sel., which adjudicated a civil case for an Application for Cancellation of a Decision of the Indonesian National Arbitration Board (BANI), which has issued the following determination in matters between: a). PT. Cipta Kridatama, as the Petitioner; against, b). Indonesian National Arbitration Board (BANI), as the Respondent, c). Bulk Trading, SA, as Co-Defendant. That the applicant and has agreed to make an agreement for coal mining activities as

outlined in the Coal Mining Work Contract No. 01/CK-BT/KON-TAMB/XII/2006 dated February 20, 2007 (hereinafter referred to as the "Contract").

Based on this contract mining work will be carried out by PT. Cipta Kridatama within 60 months or when the production target of 5.7 million MT (metric tons) has been achieved. The work that must be done by PT. Cipta Kridatama is divided into 2 stages. The first is the Pre-Production period which is carried out in the first three months, namely March, April, and May 2007. During this time, preparation for production (mining) is carried out in the form of transporting soil, sand, and rocks that cover coal (overburden). The second is the production period starting after the end of the Pre-Production period which started in June 2007 for a period of 57 months. During the production period, PT. Cipta Kridatama is required to meet a monthly coal production of 80,000 MT. To measure and find out what jobs have been done by PT. Cipta Kridatama, all work is recorded in the minutes signed by PT. Cipta Kridatama and Bulk Trading, SA. During the trial at the Indonesian National Arbitration Board (BANI), Bulk Trading, SA admitted that he had signed the minutes during both pre-production and production. As for each type and several prices of each work set out in detail in the contract.

However, in the implementation of Bulk Trading, SA only pays for the first three invoices that PT. Cipta Kridatama was published with a total of USD 955,704.00, and the rest was not paid. To resolve the legal problems that occur, PT. Cipta Kridatama filed a petition for arbitration against Bulk Trading, SA through the Indonesian National Arbitration Board (BANI), arguing that Bulk Trading, SA had defaulted because Bulk Trading, SA had neglected its obligation to pay under the contract. Furthermore, in the Bulk Trading arbitration process, SA submitted a request for reconvention with the argument that PT. It was Cipta Kridatama who had defaulted on Bulk Trading, SA because of PT. Cipta Kridatama was unable to fulfill its obligation to produce and supply coal to Bulk Trading, SA which had been agreed in the contract each month an average of 80,000 MT (metric tons).

To address the legal problems that occurred between PT. Cipta Kridatama and Bulk Trading, SA, the arbitral tribunal has rendered a decision in arbitration case No. 300/II/ARB-BANI/2009 on October 22, 2009, by refusing the petition for arbitration by the applicant (PT. Cipta Kridatama) in the convention and accepting the request for reconvention from the respondent (Bulk Trading, SA) and stating that PT. It was Cipta Kridatama who had defaulted. Feeling the decision of the Indonesian National Arbitration Board (BANI) is far from fair, PT. Cipta Kridatama filed an application for the cancellation of the arbitration award No. 300/II/ARB-BANI/2009 on October 22, 2009, through the South Jakarta District Court (Muhammad Andriansyah 2014).

The two examples of cases that the researcher described above are only a small part of the many cases of arbitration decisions that were later annulled by the district courts. The existence of two institutions that decide on the same case proves that on the one hand, the court is of the opinion that the district court is authorized to hear cases. Meanwhile, on the other hand, the arbitration institution is of the opinion

that BANI has the authority to hear cases. The act of tug of war and the conflict of absolute competence in adjudicating cases as stated above certainly need to be resolved because basically the implementation of the authority of these two institutions is different from one another.

Starting from the thoughts that have been described above, it also attracts attention and at the same time becomes a motivation for the author to study and investigate this issue further. To find an answer about which institution is actually authorized to hear cases, the author formulates it under the title "Settlement of Business Contract Disputes Through Arbitration Efforts in the Review of Civil Law". The issue of this research is "To what extent is the legal force of an arbitration award in a business contract?" What are the principles and procedures for resolving contract disputes through arbitration? What are the obstacles in the process of resolving disputes through arbitration?

2. LITERATURE REVIEW

A. Theoretical Foundation

1. Dispute Resolution Theory

Dispute resolution theory is a theory that examines and analyzes the categories or classifications of disputes or conflicts that arise in society, the factors that cause disputes, and the strategies used to end the dispute. According to John Burton, the settlement of the dispute, in which there is authority and law, can be requested from the parties by a mediating group to be implemented. In this respect, the traditional approach to dispute management and regulation is generally based on mediation and negotiation.

This approach will only work if the disputing parties agree to negotiations and have something to offer (EL Fatiha 2004). C.W. Moore mentions that the dispute resolution model through mediation can be described as an intervention in a dispute or negotiation by a third party that is acceptable, impartial, and neutral, and does not have the authority to make decisions in assisting the disputing parties as an effort to reach agreement voluntarily in resolving the problem. disputed by the parties (Joni Emirjon).

Meanwhile, Dean G. Pruitt and Jeffrey Z. Rubin say that conflict is a perception of perceived divergence of interest or a belief that the aspirations of the conflicting parties are not achieved simultaneously (simultaneously) (Salim, HS 2010). Dean G. Pruitt and Jeffrey Z. Rubin put forward the theory of dispute resolution strategies, namely: (1) Contending (competing), (2) Yielding (giving in), (3) Problem solving (problem-solving), (4) Withdrawing (withdraw) and (5) Inaction (silent) (Laura Nader and Harry F. 2011).

2. Theory of Justice

The word "justice" in English is "justice" which comes from the Latin "iustitia". The word "justice" has three different meanings, namely; (1) attributively means a fair or fair quality (synonym of justness), (2) as an action means an act of carrying out the law or action that determines rights and rewards or punishments (synonymous judicature), and (3) people, namely public officials who have the right to determine the requirements before a case is brought to court (synonymous judge, jurist, magistrate) (Bartleby 2022).

Justice is a morally ideal condition of truth about something, whether it concerns objects or people. Justice is a decision-making result that contains the truth, is impartial, can be accounted for, and treats everyone on an equal footing before the law. There are three characteristics that always mark justice directed at others: First, justice is always directed at others or justice is always characterized by other directedness. The problem of justice or injustice only arises in the context of human beings, for it is necessary to treat at least two human beings if at one time there is only one human on this earth, the issue of justice or injustice no longer plays a role. Second, justice must be served or implemented. So justice is not only expected or recommended so that we have special obligations and characteristics because justice is always related to the rights of others. We will give something for reasons of justice. We must always or are obliged to give something for some other reasons we will not be obliged and will give it. Third, justice according to equality, on the basis of justice we must give everyone what is their due without exception. A new person deserves to be called a just person if he treats everyone fairly. Because it cannot be denied by all humans in all countries that the demands of justice need to be realized in the life of the community, nation, and state. The element of justice is also an essential thing in human life. The realization of justice can also be said to be the main prerequisite for the prosperity and welfare of the community. There are various theories about justice and just society. These theories concern rights and freedoms, opportunities for power, income, and prosperity. Among these theories are Aristotle's theory of justice and John Rawl's theory of justice.

3. Covenant Theory

Basically, the definition of an agreement has been regulated in the Civil Code (KUHPerdata) article 1313, namely that an agreement or agreement is an act where one or more people bind themselves to one or more other people. The word approval is a translation of the word *overeekomst* in Dutch. The word *overeekomst* is commonly translated also with the word agreement. So the agreement in Article 1313 of the Civil Code is the same as an agreement.

According to Subekti (2001), an agreement is an event where one person promises to another person, or where two people promise each other to do something. Sri Soedewi Masjchoen Sofwan, argues that an agreement is a legal act in which a person or more binds himself to another person or more. R. Setiawan (1987), states that an agreement is a legal act in which one or more persons bind themselves or bind themselves to one or more persons.

An agreement that occurs intentionally between the two parties can be referred to as an agreement that can give rise to rights and obligations for each party that needs to be realized. Article 1234 of the Civil Code explains that the rights and obligations that need to be realized are in the form of achievements which are contained in an obligation to give or surrender something, to do something, or not to do something.

Basically, agreements can contain several elements (Salim H.S et al. 2007).

a. Deed
b. The use of the word "Action" in the formulation of this Agreement is more appropriate if it is replaced with the word legal action or legal action because the act has legal consequences for the parties who agreed;
c. One or more people against one or more other people.
d. For an agreement to exist, there must be at least two parties facing each other and giving each other a statement that fits each other. A party is a person or legal entity.
    a. bind himself,
e. In the agreement, there is an element of the promise given by one party to the other. In this agreement, people are bound by legal consequences that arise of their own will.

The existence of an agreement occurs when there is an agreement and a statement from both parties who have a position in the agreement. The word of agreement, in this case, is about the main things in the form of oral and written, while the statement of both parties occurs when one party offers statements about the agreement and the other agrees about what is stated.

B. Theoretical Framework

Many Indonesians have started to choose settlements through national arbitration in resolving their business disputes. This is because they consider arbitration institutions to be more profitable than settlements through court litigation institutions. In addition, the settlement time of cases is faster than that of a district court; its judges or appointed arbitrators have special knowledge because in addition to legal experts they also have expertise in other fields.

Another advantage of arbitration is that the parties can each appoint an arbitrator of their choice who will consider the evidence presented as the basis for their decision. This means giving the possibility for the parties to appoint an expert who understands the dispute so as to free the parties from the obligation to present an expert to ask for an opinion without any additional cost.

The arbitral award is independent, final, and binding (such as a decision that has permanent legal force) so the chairman of the court is not allowed to examine the reasons or considerations of the national arbitral award. However, in practice, many arbitration decisions are re-examined and tried in district courts, and it is not

uncommon for decisions from district courts to overturn arbitral awards. This of course raises debate among academics. To analyze this, the researcher proposes two variables that will be the research targets, namely first, the legal legality variable for resolving business contract disputes through arbitration according to civil law.

The indicators of this variable are (1) the legal basis for resolving business contract disputes through arbitration (2) The position and function of the arbitration institution in resolving business disputes (3) The execution of arbitration awards in the settlement of business contract disputes. Second, the conceptual variable of resolving business contract disputes through arbitration can end business disputes between the parties. The indicators of this variable are (1) the arbitration award is final (2) the choice of arbitration as a dispute resolution forum (3) The court's authority in resolving disputes with arbitration clauses.

3. METHODS

This study uses normative legal research (Abdul Kadir Muhammad 2004). The selection of this type of normative research is related to the formulation of the problem that becomes the issue of legal research and is also used to analyze the content, nature, and legal duties regulated in the legislation or in those contained in the legal substance.

In accordance with the type of normative research, this research is a descriptive analysis that reveals the laws and regulations related to legal theories. The laws and regulations become the object of the researcher, as well as the law in its implementation in society with regard to the object of research.

The legal materials used to solve the problems as formulated in this legal research are sourced from primary legal materials, secondary legal materials, and tertiary legal materials.

Primary law material consists of legislation and jurisprudence. The primary legal materials used in relation to the scope of the problem are as follows:

1. Civil Code;
2. Law Number 30 of 1999 concerning Arbitration and Dispute Resolution

Secondary law materials used in legal research are generally legal science textbooks and published scientific journals. The secondary legal materials used in this normative legal research include books, literature, including foreign literature that contains legal theories, principles, and legal concepts that are deemed relevant in accordance with the problems studied to be cited and become references. justification for answering the problem.

4. RESULTS AND DISCUSSION

1. Principles and Procedures for Settlement of Contract Disputes through Arbitration.

Settlement of disputes through arbitration as regulated in Article 34 of Law No. 30 of 1999 concerning arbitration. The arbitration may be conducted using arbitration institutions,

national or international based on the agreement of the parties, and carried out according to the rules and procedures of the chosen institution unless otherwise stipulated by the parties. Based on this, in the event that the parties choose arbitration as their dispute resolution, the dispute resolution process will be carried out according to the rules and procedures of the arbitration institution chosen by the parties, unless the parties determine otherwise.

In principle, the law gives freedom to the parties to determine for themselves the arbitration procedure and process they want to be used by the arbitrator who has been appointed or appointed in the examination of the dispute. As emphasized in Article 31 of the Arbitration Law, the parties are free to determine the arbitration procedure to be used in the examination of the dispute. The choice of procedure and examination process must be stated "firmly" and "written" in an agreement (arbitration), provided that it does not conflict with the provisions stipulated in the Arbitration Law. In certain cases, the examination of disputes through arbitration also still uses the provisions in the applicable civil procedural law, unless specifically regulated in the Arbitration Law. Sources of civil procedural law exist in various colonial and national laws and regulations currently in force, including:

a. *Het Herziene Indonesich Reglement Staatsblad* 1941 Number 44 (Updated Indonesian Regulation), which also contains provisions of civil procedural law applicable in Java and Madura.
b. *Rechtsreglement voor de Buitengewesten Staatsblad* 1927 Number 227, which also contains provisions of civil procedural law applicable to areas outside Java and Madura.
c. *Reglement op de Rechtsvordering Staatsblad* 1847 Number 52 (Civil Procedure Regulation), which contains civil procedural law for European population groups who have litigation at Raad van Justitie.
d. *Burgerlijk Wetboek* (Book of Civil Code) for residents of Europe and those who are subject to it, which also contains provisions of civil procedural law, especially regarding proof and expiration as mentioned in Book IV.119

In addition, the principles or principles in dispute resolution through arbitration include the following:

a. All dispute examinations are conducted behind closed doors.
b. The language used is Indonesian, except with the approval of the arbitrator or the arbitral tribunal. The parties may choose another language to be used.
c. The disputing parties have the same rights and opportunities in expressing their respective opinions.
d. The disputing parties can be represented by their proxies with a special power of attorney.
e. Third parties outside the arbitration agreement may participate and join in dispute resolution through arbitration provided that there is an element of related interest. Their participation is agreed upon by the disputing parties and approved by the arbitrator or arbitral tribunal.

f. The parties are free to determine the arbitration procedure used in the examination of the dispute, on the condition that it must be stated in a firm and written agreement.
g. All disputes whose resolution is submitted to the arbitrator or arbitral tribunal will be examined and decided according to the provisions of the Arbitration Law.
h. At the request of one of the parties, the arbitrator or arbitral tribunal may take a provisional decision or an interim decision to regulate the orderliness of the examination of the dispute, including the determination of a security confiscation ordering the safe keeping of goods to a third party, or the sale of perishable goods.
i. The arbitrator or arbitral tribunal may order that each document or evidence be accompanied by a translation into the language determined by the arbitrator or arbitral tribunal.

In the process of resolving arbitration disputes, the arbitrator or arbitral tribunal has the authority to take temporary measures, if deemed necessary to guarantee and maintain the rights and interests of one of the parties. The temporary action is in the form of an order issued by the arbitral tribunal which is carried out if the action is considered important to maintain the maintenance of the disputed goods both to ensure that the claim is not in vain or to avoid damage to the object of the dispute. Any action that is temporary in nature is stated in the form of an "interim award" or "interim award" or it may also be in the form of a letter of determination or "recommendation". This interim decision is a provisional decision that precedes the final decision on matters or events that are not related to the main case in order to guarantee the interests of one of the parties.

Based on Article 32 paragraph 1 of the Arbitration Law, it is stated that "at the request of one of the parties, the arbitrator or arbitral tribunal may make provisional decisions or other interlocutory decisions to regulate the orderliness of the examination of disputes including the determination of confiscation of collateral, ordering the safe keeping of goods to third parties, or selling goods that are easily damaged". In paragraph 2 of the article it states that "the period of implementation of a provisional decision or other interlocutory decision as referred to in paragraph 1 is not calculated within the period as referred to in Article 48". this interlocutory award is not counted or included in the undetermined time limit for dispute resolution. And all costs related to the existence of the interlocutory award will be borne by the requesting party. In the event that the interlocutory award in arbitration is different from the interlocutory award in court, if the interlocutory award is interrupted in court, it is handed down before the process of examining the principal case begins, which means that the process of examining the principal case will only begin after an interlocutory decision is made. Meanwhile, the interim decision in arbitration can be made at any time during the examination process.

In the evidentiary procedure, the examination of a dispute in arbitration may apply to the evidentiary procedure in a district court, in the process as long as it does not conflict with the Arbitration Law, the arbitration provisions chosen by the parties and do not conflict with the nature and nature of the arbitration. Determination of valid evidence in the process

of examining a dispute or case is very important. Limitative determination of valid evidence is the basis of legal certainty in the process of proof and decision-making. Determination of valid evidence in an arbitration dispute examination depends on the legal provisions designated in particular legislation. The determination of this reference lies in the arbitration clause. For example, the statements of factual witnesses or expert witnesses may be arbitrated at the initiative or at the request of the arbitrator or arbitral tribunal and may also be at the request of one or both of the disputing parties. Regarding the examination of witnesses and expert witnesses, it is regulated in Article 49 and Article 50 of the Arbitration Law. After the arbitration examination process is complete, the arbitrator or arbitration panel will then close the examination and determine the day of the hearing to read out the decision. Based on Article 56 paragraph 1 of the Arbitration Law, it is stated that the arbitrator or arbitral tribunal makes decisions based on legal provisions, or based on justice and propriety. Based on Article 54 paragraph 1 of the Arbitration Law, it is determined that the arbitration award must contain:

a. the head of the decision which reads "FOR JUSTICE BASED ON THE ONE ALMIGHTY GOD";
b. full names and addresses of the parties;
c. brief description of the dispute;
d. the stance of the parties;
e. the full name and address of the arbitrator;
f. the considerations and conclusions of the arbitrator or arbitral tribunal regarding the whole dispute;
g. the opinion of each arbitrator in the event that there is a difference of opinion in the arbitral tribunal;
h. verdict;
i. the place and date of the decision; and
j. the signature of the arbitrator or arbitral tribunal.

2. Obstacles in the Dispute Resolution Process through Arbitration

The settlement of contract disputes through arbitration does not always run smoothly. In this case, of course, there are obstacles in the settlement process through arbitration. These obstacles can come from various parties related to the dispute. These obstacles can occur during the dispute resolution process, even when a decision has been made where the decision is not implemented properly.

During the dispute resolution process through arbitration, these obstacles can come from the arbitrator where the arbitrator is not of the proper nature. An arbitrator must be neutral and impartial to any party because an arbitrator has the duty to examine and render an arbitration award honestly, fairly, objectively, and in accordance with the applicable provisions within a predetermined period of time. So that an arbitrator should be able to work professionally in accordance with his field of expertise, in order to produce an objective and fair arbitration award based on the provisions of law, justice, and propriety. In this case, if an arbitrator does not work professionally and is partial to one party or is under the intervention of another party, the dispute resolution process through arbitration will not

work properly because the decision made by the arbitrator will certainly be unfair and not based on legal provisions. Justice, and propriety. These obstacles can also come from the arbitration institution itself, where the arbitration institution is not yet known and its existence is not widely known by the public. So there are still people who have not put their trust in arbitration, which makes people reluctant to submit their cases to be resolved through arbitration institutions.

In addition, obstacles can also come from the disputing parties where one of the parties is dissatisfied with the arbitral award so as to file a request for cancellation of the arbitral award, this obstacle can also occur due to deliberately delaying the execution of the decision (Salahudin 2011). Basically, this can happen because one of the dissatisfied parties has bad intentions. The existence of bad faith from one of the disputing parties will certainly be an obstacle in resolving disputes through arbitration. For example, if one of the parties who have bad faith intentionally delays the dispute resolution process, or does not want to implement the arbitral award and even fights against the arbitral award by submitting the cancellation of the arbitral award to the district court.

Actually, there is a prohibition on court intervention in disputes that are already bound by an arbitration agreement as contained in Article 3 of the Arbitration Law which states that district courts are not authorized to adjudicate disputes between parties who have been bound by an arbitration agreement. The court can only assist at the level of execution of the decision. However, in reality, the court's intervention in the execution stage can be an obstacle to executing the arbitral award because of the court's procedures and bureaucracy in carrying out the execution, as well as the possibility of the Head of the District Court to assess whether the execution can be carried out or not. [1] And in reality, there are still courts that annul the arbitral award for various reasons. In this case, the judge's lack of understanding of the arbitration provisions can also be an obstacle in the process of resolving disputes through arbitration. Thus, even if there is no sufficient reason for the cancellation as stated in Article 70 of the Arbitration Law, the judge continues to examine the case, even further by examining the main substance of the case that has been decided by the arbitration. This is very detrimental to parties with good intentions, and also creates legal uncertainty.

5. CONCLUSION

Based on the results of research and discussion previously, the authors draw the following conclusions:

1. The existence of corporations as the subject of criminal acts in corruption has been accepted as a legal subject of criminal acts. It's just that in determining who the subject of corporate criminal law is, it becomes unclear because there are several terms of criminal law subject for corporations that are regulated in special laws and regulations, including corruption. The variety of terms and designations of criminal law subjects for corporations will result in ambiguity in law enforcement.
2. The problem of implementing the form of criminal responsibility for corporations as perpetrators of criminal acts is not patterned and seems inconsistent between one

decision and another court decision so that it will also threaten the consistency of the type and quality of criminal liability and the system of sanctions that will be applied by law enforcement officials.

Based on the conclusion of the study, the researcher recommends the following

Suggestions that put forward by the author as a solution to the following conclusions:

1. It is better if the term criminal act for corporations is uniformly defined as "every person" and/or "legal entity" so that in its application it does not create ambiguity for the perpetrators of criminal acts committed by corporations.
2. It is recommended that the concept of accountability for corporations as perpetrators of corruption is applied consistently by law enforcement officers (prosecutors and judges) and not varied so that in its application it does not cause discrimination for everyone and does not seem inconsistent in law enforcement.

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