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CONTRACT DISPUTE RESOLUTION MECHANISM AT PERTAMINA EP ZONE 7

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Abstract :
Background. Pertamina EP Zona 7, as a Cooperation Contract Contractor (KKKS) under the Upstream Subholding, relies heavily on procurement contracts with external partners to carry out oil and gas exploration and production activities in the Jatibarang, Subang, and Tambun Fields. The complexity and high risk inherent in these contracts create considerable potential for disputes, whether arising from work delays, cost overruns, or differing technical interpretations.
Aims. This study aims to analyze the dispute resolution mechanism applied at PT Pertamina EP Zona 7 and to compare the effectiveness of resolution through the District Court and Arbitration.
Methods. The method employed is normative juridical research using a literature-based approach to statutory regulations, internal company guidelines, and relevant legal literature.
Result. The findings show that dispute resolution at Zona 7 follows a tiered approach, beginning with internal deliberation and escalating to a formal forum only as a last resort (ultimum remedium), in accordance with SKK Migas Work Guideline PTK-007/SKKMA0000/2023/S9 (Revision 05). The comparison between the District Court and Arbitration indicates that arbitration is superior in terms of time efficiency, confidentiality, and the technical competence of arbitrators, despite requiring higher upfront costs.
Conclusion. Consequently, the arbitration clause has become the dominant and most suitable forum choice in procurement contracts at PT Pertamina EP Zona 7 to safeguard operational continuity and achieve national oil and gas lifting targets.

Keywords: Dispute Resolution, Procurement Contract, Arbitration, District Court, Pertamina EP Zone 7.

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INTRODUCTION

The upstream oil and gas (oil and gas) sector plays a fundamental role in maintaining national energy security while making a significant contribution to state revenue. The characteristics of upstream oil and gas activities that are colored by high levels of risk, technical uncertainty, technological complexity, and enormous capital requirements demand precise management of operational and legal governance. Within the national oil and gas industry, PT Pertamina (Persero) has undergone a strategic transformation through the establishment of *a Holding* and *Subholding* scheme. In this scheme, PT Pertamina (Persero) acts as a *Holding Company*, which oversees six main *Subholdings*, namely *Upstream Subholding* (PT Pertamina Hulu Energi), *Refining & Petrochemical* Subholding (PT Pertamina International Refinery), *Commercial & Trading Subholding* (PT Pertamina Patra Niaga), *Gas Subholding* (PT PGN Tbk), *Subholding Integrated Marine Logistics* (PT Pertamina International Shipping), and *Power & New Renewable Energy Subholding* (PT Pertamina Power Indonesia). This restructuring aims to improve business and operational efficiency, as well as competitiveness, in each energy value chain.

Under the auspices of the Upstream Subholding (PT Pertamina Hulu Energi), the management of the upstream work area is divided into several regions, where Region 2 Java oversees upstream oil and gas operations in the Java region and its surroundings. The operational area of Region 2 Java was then subdivided into operational zone units, one of which was PT Pertamina EP Zone 7. PT Pertamina EP Zone 7 manages a very vital upstream oil and gas working area in West Java province, which oversees several main oil and gas fields, namely the Jatibarang Field (Indramayu and Cirebon areas), the Subang Field (Subang and Purwakarta regions), and the Tambun Field (Karawang and Bekasi regions). These three operational fields under Zone 7 bear a great responsibility to maintain oil and gas exploitation and exploration to achieve the national energy lifting target set by the government through Law Number 22 of 2001 concerning Oil and Gas.

In carrying out complex exploration and production operational activities in the Jatibarang Field, Subang Field, and Tambun Field, PT Pertamina EP Zone 7 does not move alone but relies heavily on partnership schemes with external suppliers of goods and services (*contractors* and *vendors*). This partnership is outlined in a cooperation contract for the

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procurement of goods and services, covering a wide spectrum of business activities ranging from drilling services and well intervention to the provision of upstream production facilities and large-scale construction work under the Engineering, Procurement, and Construction (EPC) scheme. Given its position as a Cooperation Contract Contractor (KKKS), the entire process of procurement of goods and services and the preparation of contracts at Pertamina EP Zone 7 must refer to the SKK Migas Work Procedure Guidelines Regulation Number PTK-007/SKKMA0000/2023/S9 (Revision 05).

In civil terms, the contract for the procurement of goods and services made between PT Pertamina EP Zone 7 and the service provider is subject to the legal principles of the agreement as stipulated in the Civil Code (KUHPerdata / *Burgerlijk Wetboek / BW*). Under Article 1320 of the Civil Code, an agreement is valid if it meets four normative conditions: the agreement of the parties (*consensus*), the ability to make an agreement (*capacity*), a certain *subject matter*, and a *lawful cause*. The fulfillment of Article 1320 of the Civil Code gives birth to the principle *of pacta sunt servanda* as stipulated in Article 1338 of the Civil Code, which affirms that all agreements made legally are valid as laws for those who make them. Therefore, the clauses agreed in the procurement contract in Zone 7, including the *dispute resolution clause*, have absolute binding legal force for Pertamina EP Zone 7 and partner contractors.

However, the long-term, dynamic, and capital-intensive nature of oil and gas contracts naturally holds a high potential for conflict or dispute between parties. Contract disputes in Pertamina EP Zone 7 generally stem from various technical and financial factors in the field, such as delays, cost *overruns*, price adjustments, work safety incidents, and differences in interpretations of technical specifications and engineering design documents. When deliberations fail to reach common ground, the company and its partners face a legal crossroads and must choose a formal dispute-resolution path. In contract drafting, the choice of forum usually boils down to two main options: the litigation route through the general court (Court Institution) or the non-litigation route through Arbitration, as stipulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

The two dispute resolution forums have very contrasting juridical, technical, and financial implications for the continuity of operations at PT Pertamina EP Zone 7. Settlement through the Court Institution offers direct executory certainty and more affordable initial registration administrative costs. However, the general justice system is highly vulnerable in upstream oil and gas industry disputes because the process can take years due to the parties' right to file tiered legal remedies ranging from appeal and cassation to Review. The public

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nature of the trial also risks revealing confidential geological data, operational strategies, and corporate reputations. In addition, judges in the Court Institution are generalists and are not always equipped with a deep technical understanding of the complexity of technical standards and commercial procedures in the upstream oil and gas industry.

On the other hand, arbitration is widely considered the main standard for dispute resolution in the oil and gas industry because it upholds *confidentiality*, where the trial process and the award are closed to the public. The main advantage lies in the competence of the arbitrator, where the parties can appoint experts who have specific specializations in the field of oil and gas law or petroleum engineering, as well as the nature of the decision that *is final and binding* without any appeal or cassation mechanism so as to provide relatively faster legal certainty for the continuity of the project. However, arbitration requires registration of execution to the Court and charges arbitrator fees and relatively high administrative fees. Delays in resolving disputes in the oil and gas industry not only lead to financial losses, but also risk stopping production facilities, disrupting the energy supply chain, and thwarting the national oil and gas lifting target in Zone 7. Based on these juridical and operational dynamics, this study was conducted to comprehensively analyze the effectiveness of implementing dispute resolution rules and to compare the advantages and disadvantages of Court Institutions versus Arbitration at PT Pertamina EP Zone 7, in order to formulate the most ideal and safe agreement clause strategy for corporations.

PROBLEM FORMULATION

1. What are the arrangements related to dispute resolution at PT Pertamina EP Zone 7 and its application in implementation practices in the field?
2. How is the comparison of contract dispute resolution through judicial and arbitration institutions reviewed from the aspects of time efficiency, cost, confidentiality, and legal certainty for PT Pertamina EP Zone 7?

METHODS

In this study, the author uses a normative juridical research method, namely legal research conducted through literature studies. The normative juridical method focuses on assessing and systematizing written legal materials that refer to legal norms in laws and regulations and court decisions. Legal materials are obtained from various literary sources, such as books, journals, papers, the internet, and other relevant references. The purpose of this

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study is to find out and analyze whether the contract dispute resolution mechanism at PT Pertamina EP Zone 7 has been running well, as well as to examine the advantages and disadvantages of the mechanism.

DISCUSSION

Regulation and Implementation of Contract Dispute Resolution at PT Pertamina EP Zone 7

In general, the dispute resolution mechanism in an agreement is a logical consequence of the principle of freedom of contract (*partij autonomie*) as adopted by Indonesian civil law. The parties are free to determine the dispute resolution clause as an integral part of the agreement, as long as it does not conflict with the law, public order, and decency, as limited by Article 1337 of the Civil Code. In the practice of drafting commercial contracts, including contracts for the procurement of goods/services within Pertamina EP Zone 7, the dispute resolution mechanism is usually arranged in stages (*tiered dispute resolution*), which begins with deliberative efforts and direct negotiations between the parties, followed by mediation if necessary, and then leads to a formal dispute resolution forum in the form of litigation at the Court or Arbitration Institution according to the choice of forum (*choice of forum*) that has been agreed upon from the outset in the contractual clauses.

Contracts for the procurement of goods/services managed by PT Pertamina EP Zone 7 generally include a dispute resolution clause that strictly points to two forums: the District Court in a certain jurisdiction or an arbitration institution, in accordance with Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The firmness of the selection of this forum is important considering the applicability of the principle *of pacta sunt servanda* as stipulated in Article 1338 of the Civil Code, that is, once the dispute resolution clause is agreed, the clause is binding on the parties according to the law and closes the possibility of one party filing a lawsuit in another forum outside the one that has been mutually agreed.

If the contract dispute in Zone 7 is resolved through the District Court's litigation route, the procedural process is subject to the provisions of the Civil Procedure Law applicable in Indonesia, namely *the Herzien Inlandsch Reglement* (HIR) for Java and Madura and *the Rechtsreglement voor de Buitengewesten* (RBg) for areas outside Java and Madura, which are complemented by *the Reglement op de Rechtsvordering* (Rv) for matters that have not been specifically regulated in the HIR/RBg. Broadly speaking, the stages of civil procedure law

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begin from the filing of a lawsuit by the plaintiff to the competent District Court clerk in accordance with Article 118 of the HIR, examination of the completeness of the file and determination of the date of the hearing, mandatory mediation efforts as stipulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Court, Followed by the reading of the lawsuit, the defendant's answer, the plaintiff's replica, the defendant's duplicate, the proof stage in the form of submitting evidence of letters, witnesses, and expert testimony, submission of the parties' conclusions, to the reading of the verdict by the panel of judges. Against the first-instance decision, the aggrieved party still has the right to take a tiered legal remedy in the form of an appeal to the High Court, cassation to the Supreme Court, and in certain circumstances a review, before the decision acquires permanent legal force (*inkracht*) and can be requested for execution. The length of this series of civil procedural laws is one of the main considerations why upstream oil and gas contracts in Zone 7 tend to direct dispute resolution to an arbitration forum, because the arbitration process based on Law Number 30 of 1999 is simpler, without appeal or cassation stages, and produces a *final and binding decision* from the beginning.

In the internal environment, PT Pertamina EP Zone 7 as a Cooperation Contract Contractor (KKKS) under *the Upstream Subholding* is not solely subject to the provisions of the Civil Code and the Oil and Gas Law, but is also bound by the company's technical-administrative rules, namely the SKK Migas Work Procedure Guidelines Number PTK-007/SKKMA0000/2023/S9 (Revision 05) concerning the Procurement of Goods/Services for Cooperation Contract Contractors. PTK-007 serves as a mandatory guideline that regulates the entire procurement cycle for goods/services, from planning and the tender process to contract preparation and the dispute resolution mechanism that arises during contract implementation. The provisions in PTK-007 require every procurement contract made by Zone 7 to include a dispute resolution clause in stages, starting from the settlement at the field operational level between the work supervisor (*Field*) and the implementing contractor, then escalated to the Zone management level if no agreement is reached, before finally being forwarded to the formal dispute resolution forum that has been agreed in the contract.

In the practice of its implementation in the field, the implementation of the internal mechanism can be seen in handling various problems such as delays in drilling work, claims of cost overruns, and differences in interpretation of technical specifications between Zone 7 supervisors and contractors. PT Pertamina EP Zone 7 always prioritizes family settlement through technical coordination meetings and renegotiation of contract terms as the first step, in

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line with the principles of transaction cost efficiency and legal risk control from the initial stage. This internal settlement effort is in line with the spirit of PTK-007, which places a formal dispute resolution forum, both through the Court and Arbitration Institutions, as the last resort (*ultimum remedium*) that is only taken after all internal deliberation mechanisms are carried out but do not yield results.

Comparison of Contract Dispute Resolution through Court and Arbitration Institutions

In terms of time efficiency, dispute resolution through the Court Institution tends to take much longer than arbitration. This is because the losing party has opportunities to pursue tiered legal remedies, ranging from appeals and cassation to review, so the settlement of upstream oil and gas disputes in Zone 7 can take many years before the decision has permanent legal force. On the other hand, arbitration offers a relatively short process because of the nature of the final *and binding decision* without an appeal or cassation mechanism, so it is more in line with the character of oil and gas projects that demand certainty of completion as soon as possible so as not to interfere with the continuity of production operations and the achievement of *lifting targets*.

In terms of costs, the Court Institution is relatively more affordable in the early stages because it is subject only to the case fee at the rate set by the court, without the arbitrator's honorarium. However, if the process continues to appeal, cassation, and review, the total costs borne by the parties can swell significantly over the course of the proceedings. Arbitration, on the other hand, requires relatively high administrative costs and arbitrator fees at the beginning of the process, but due to the shorter and untiered nature of the process, the overall total cost can ultimately be more predictable and efficient for the business interests of PT Pertamina EP Zone 7 in the long run.

In terms of confidentiality, arbitration is far superior to the Court. Court trials are open to the public (public trial), so sensitive information such as geological data, exploration technology, and PT Pertamina EP Zone 7's business strategy is at risk of being exposed through widely publicized decisions. On the other hand, the arbitration process based on Law Number 30 of 1999 is closed and confidential, both in terms of the course of the trial and the ruling, so it is more suitable to be used for disputes related to the strategic interests of the corporation and operational data that are confidential to the company.

From the perspective of legal certainty, the Court Institution is supported by direct executory power because its decisions are a product of the state's judicial power, so the execution process does not require additional registration. Meanwhile, the arbitral award,

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although *final and binding*, still requires registration with the Court before it can be forcibly executed if the losing party does not voluntarily implement the award. However, the legal certainty produced by arbitration is substantively considered higher because disputes are decided by arbitrators who have technical expertise in oil and gas law and petroleum engineering, thereby minimizing the risk of judgments that are not in line with the technical complexity of the upstream oil and gas industry compared to generalist judges in the Court Institution.

Based on these four aspects, it can be understood that although the Court Institution excels in direct executory power and more affordable initial costs, arbitration as a whole is more in accordance with the characteristics of upstream oil and gas contract disputes at PT Pertamina EP Zone 7 which demand speed, confidentiality, and technical competence of arbitrators. Therefore, it is natural that in the practice of drafting contracts for the procurement of goods/services in Zone 7, the arbitration clause is the choice of forum that is more dominant than the litigation clause of the Court.

CONCLUSION

Tiered Dispute Resolution Mechanism

The dispute resolution mechanism for the procurement of goods and services contracts at PT Pertamina EP Zone 7 is carried out through *a tiered dispute resolution* approach. This process places formal legal channels as the last resort (*ultimum remedium*) after deliberation and negotiations at the field operational level, and Zone 7 management has not reached an agreement. This mechanism implements the principle of freedom of contract (pacta sunt servanda) in the Civil Code, as well as the internal provisions of the SKK Migas Work Procedures Guidelines Number PTK-007/SKKMA0000/2023/S9 (Revision 05).

Comparison of Court and Arbitration Institutions as Dispute Resolution Forums

When selecting a formal dispute resolution forum through litigation in court, the main advantages are the relatively low initial registration fee and the certainty of immediate execution. However, the Court has significant weaknesses for the upstream oil and gas industry, such as the lengthy process due to tiered legal remedies (Appeal, Cassation, Review), the nature of the trial that is open to the public so that there is a risk of leaking geological data and confidential business strategies, and the limited technical competence of generalist judges. On the other hand, the Arbitration mechanism based on Law No. 30 of 1999 has proven to be much more ideal and effective for PT Pertamina EP Zone 7. Although it requires higher initial

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costs and the need to register the execution with the court, arbitration offers the main advantages in the form of confidentiality guarantees, time efficiency because the decision is *final and binding* without any appeal or cassation, as well as dispute examination by arbitrators who have specific expertise in the technical fields of petroleum and oil and gas law. Therefore, arbitration is the most dominant and appropriate forum choice to maintain the sustainability of the project and the resilience of *the national energy* lifting target.

Advice

Based on the results of the analysis and conclusions above, the author formulates some suggestions as follows.

Regarding the regulation and implementation of dispute resolution at PT Pertamina EP Zone 7

Companies need to strengthen the internal dispute resolution mechanism in stages, starting from the field operational level to the zone management level, through the preparation of a more structured Standard Operating Procedure (SOP) and periodic training for contract teams and field supervisors, so that disputes can be resolved efficiently before escalating to a formal dispute resolution forum.

Regarding the comparison of Courts and Arbitration as a dispute resolution forum at PT Pertamina EP Zone 7

It is recommended to consistently include clear and detailed arbitration clauses in each contract for the procurement of goods/services, including the determination of the arbitration institution, the choice of applicable law, and the venue for the arbitration, in order to avoid ambiguity and potential conflicts of choice of forum in the future. In addition, considering that the Arbitration award still requires registration with the Court to be enforceable, the company is advised to conduct further legal studies on the strategy to accelerate the execution of the arbitration award, including preparing the completeness of the documents from the beginning of the arbitration process, so that the legal certainty obtained is not reduced by technical obstacles at the execution stage.

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