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Mediation Empowerment in Resolution of Civil Claims in State Court

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ABSTRACT

Mediation is a way of resolving disputes through a negotiation process to obtain an agreement between the parties assisted by a mediator as a facilitator, the provisions of which are regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in District Courts. Mediation in court is the institutionalization and empowerment of peace (court-connected mediation) with the philosophical basis of Pancasila which is the basis of the Indonesian State, especially the fourth precept "Populist led by Wisdom of Wisdom in Deliberation/Representation". The fourth precept of the Pancasila, among other things, requires that efforts to resolve disputes, conflicts or cases be carried out through deliberations to reach a consensus that is filled with a spirit of kinship. Mediation in court is the result of the development and empowerment of peace institutions as stipulated in the provisions of Article 130 Herziene Inlandsch Reglemen (HIR) / 154 Rechtsreglemen voor de Buitengewesten (RBg) which requires a judge who hears a case to earnestly seek peace between the litigants. Efforts to resolve through Mediation apart from benefiting the parties are also beneficial for the Court because Mediation is expected to overcome the problem of accumulation of cases. however, the results of research at the Sengkang District Court Class IB and the Maros District Court Class IB show that the implementation of mediation is in accordance with Perma No. 1 of 2016 concerning Mediation Procedures at the District Court. However, there are several obstacles encountered in resolving civil lawsuit disputes in the District Court, namely egotism, external factors, educational factors, absence of the parties, passing the time limit, aspects of advocates and aspects of mediator judges.

ABSTRAK

Mediasi merupakan cara penyelesaian sengketa melalui proses perundingan untuk memperoleh kesepakatan para pihak dengan dibantu oleh mediator sebagai fasilitator yang ketentuannya diatur dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Pengadilan Negeri. Mediasi di pengadilan merupakan pelembagaan dan pemberdayaan perdamaian (*court connected mediation*) dengan landasan filosofisnya ialah pancasila yang merupakan dasar Negara Indonesia terkhususus sila keempat “Kerakyatan yang dipimpin oleh Hikmat Kebijaksanaan dalam Permusyawaratan/Perwakilan”. Sila keempat dari pancasila ini diantaranya menghendaki, bahwa upaya penyelesaian sengketa, konflik atau perkara dilakukan melalui musyawarah untuk mencapai mufakat yang diliputi oleh semangat kekeluargaan. Mediasi di pengadilan merupakan hasil pengembangan dan pemberdayaan kelembagaan perdamaian sebagaimana diatur dalam ketentuan Pasal 130 *Herziene Inlandsch Reglemen* (HIR) /154 *Rechtsreglemen voor de Buitengewesten* (RBg) yang mengharuskan hakim yang menyidangkan suatu perkara dengan sungguh-sungguh mengusahakan perdamaian diantara para pihak yang berperkara. Upaya penyelesaian melalui Mediasi selain mengungtungkan para pihak juga menguntungkan bagi Pengadilan karena dengan Mediasi diharapkan dapat mengatasi masalah penumpukan perkara. namun Dari hasil penelitian di Pengadilan Negeri Sengkang Kelas IB dan Pengadilan Negeri Maros Kelas IB Menunjukkan bahwa pelaksanaan mediasi sudah sesuai dengan Perma No 1 Tahun 2016 tentang Prosedeur Mediasi di Pengadilan Negeri. namun ada beberapa hambatan yang dihadapi dalam penyelesaian sengketa gugatan perdata di Pengadilan Negeri adalah faktor egoism, faktor eksternal, faktor Pendidikan,ketidak hadiran para pihak, melewati batas waktu, aspek advokat dan aspek hakim mediator.

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I. INTRODUCTION

Mediation is a term commonly used in dispute resolution, be it business disputes, vertical or horizontal disputes, and others. Mediation is a translation of the English term,*mediation,* which, according to Steven H. Gifis, he means*"a method of settling disputes autside of a court settling; the imposition of a neutral third party to act as a link between the partis"* (Gifis, 2017). The definition of mediation among scholars is not uniform, each gives an understanding according to his point of view, the term mediate (*mediate*) comes from the Latin "*mediate*", which means to be in the middle (Amriani, 2011). This meaning refers to the role played by third parties as mediators in carrying out their duties to mediate and resolve disputes. The mediator must be able to safeguard the interests of the disputing parties fairly and equally, so as to foster the trust of the disputing parties (Abbas, 2009).

In addition, the word "mediation" also comes from English.*mediation*" which means the settlement of disputes involving a third party as a mediator, or mediating dispute resolution, which prevents them is called a mediator or a person who acts as a mediator. In this mediation process, there is an agreement between the disputing parties, which is an agreement (*consensus*) received by the parties to the dispute. Settlement of disputes through a mediation process is carried out by the disputing parties assisted by a mediator. The mediator here should play an active role by trying to find various options for dispute resolution solutions, which will be decided by the parties to the dispute jointly. Settlement of disputes through mediation, the results are stated in a written agreement, which is also final by binding the parties to be carried out in good faith (Usman, 2012).

The legal basis for mediation as an alternative to dispute resolution in Indonesia is regulated in Article 130 HIR and Article 154 RBG which regulate peace institutions. also SEMA Number 1 of 2002 concerning the empowerment of peace organizations in Article 130 HIR/154 RBG, and PERMA Number 02 of 2003 as amended by PERMA Number. 01 of 2008 was amended again with PERMA Number 1 of 2016 concerning Mediation Procedures in Court and Mediation or alternative dispute resolution (APS) outside the Court regulated in Article 6 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution.

Mediation in court is the institutionalization and empowerment of peace (*court connected mediation*) with its philosophical foundation, namely Pancasila which is the basis of our country, especially the fourth precept "Population led by Wisdom in Deliberation/Representation". The fourth precept of the Pancasila, among other things, requires that efforts to resolve disputes, conflicts or cases be carried out through deliberations to reach a consensus that is filled with a spirit of kinship. This implies that any disputes, conflicts or cases should be resolved through negotiations or reconciliation procedures between the disputing parties to obtain a mutual agreement. Previously, mediation in court tended to be facultative or voluntary, now it is imperative or coercive. Mediation in court is the result of the development and empowerment of peace institutions as stipulated in the provisions of Article 130 Herziene Inlandsch Reglemen (HIR) / 154 Rechtsreglemen voor de Buitengewesten (RBg) which requires a judge who hears a case to earnestly seek peace between the litigants. Initially, HIR and RBg recognized and wanted dispute resolution through peaceful means.

This can be seen in the provisions of Article 130 paragraph (1) HIR which formulates: "If on the appointed day both parties come, then the district court with the help of the chairman will try to reconcile them" (Soesilo, 1985).

Efforts to reconcile referred to in Article 130 paragraph (1) HIR are imperative. This means that the judge is obliged to reconcile the disputing parties before the start of the trial process. The definition of peace according to positive law as stated in article 1851 of the Criminal Code (Book of the Civil Code) promises or withholds an item, ends a case that is pending or prevents a case from arising later (Subekti & Tjitrosudibio, 1985). The presence of Supreme Court Regulation (PERMA) Number 1 of 2016 concerning Mediation Procedures in this Court is a refinement of the previous Supreme Court Regulation (PERMA), namely Supreme Court Regulation (PERMA) Number 1 of 2008 because it has not been optimal in meeting the needs of a more efficient mediation and able to increase the success of mediation in court (Harahap, 2010).

Mediation is a peaceful process between the disputing parties by submitting the settlement to a mediator (a person who arranges a meeting between two or more disputing parties) to achieve a fair final result, without wasting too much money, but still effective and fully accepted by both parties to the dispute voluntarily. Mediation as a way of resolving disputes has the main scope in the form of private/civil law. Civil disputes in the form of family, inheritance, business, contract, banking disputes and various other types of civil disputes can be resolved through mediation. The obligation to carry out mediation related to the litigation process in court, which is recommended by the judge, the mediator and the parties must follow the procedure for resolving disputes through mediation. Based on Article 130 HIR and/or Article 154 RBg a case that does not go through the mediation procedure is a violation of the provisions of HIR and RBg which results in a decision being null and void (Hanifah, 2016).

PERMA Number 1 of 2016 recognizes partial settlement of parties involved in a dispute or agreement on some of the object of the dispute. Partial Settlement Agreement is an agreement between the plaintiff and some or all of the defendant's parties and the parties' agreement on some of the entire objects of the case and/or legal issues disputed in the Mediation process. In contrast to PERMA No. 1 of 2008, where if only some parties agree or do not attend mediation, it is considered deadlocked (failed). Article 7 regulates the obligation to carry out mediation in good faith. The parties involved in the mediation process must have good faith so that with good faith the mediation process can be carried out and run well (Perma No. 1 of 2016). The legal consequence of one of the parties or a lawyer with bad faith in the mediation process is the imposition of an obligation to pay mediation fees. However, if the party with bad intentions is the plaintiff, then the lawsuit will also be declared unacceptable by the examining judge (Articles 22-23 of Perma Number 1 of 2016). Furthermore, against the decision declaring the claim unacceptable and the determination of the imposition of the obligation to pay the mediation fee, no further legal action can be taken. (Article 35 paragraph (2) Perma No 1 of 2016).

In the event that the parties are unable to attend based on valid reasons as referred to in Article 6 paragraph (4), the attorney can represent the parties to mediate by showing a special power of attorney containing the authority of the attorney to make decisions. The attorney acting on behalf of the parties as referred to in paragraph (3) must participate in the Mediation process in good faith and in a manner that does not contradict the other party or their attorney. So in Indonesia mediation is part of the tradition of society, therefore its development is more influenced by cultural factors. However, often the factor of inefficiency in resolving disputes through the courts also strengthens their commitment to using mediation (Sitepu, 2006).

Settlement of cases in the judiciary often takes a long time, especially if there are many cases piled up in court, it will take a long time and in the end this length of time will result in significant costs. This would contradict or not comply with the principle known in the Civil Procedure Code which

reads: "Justice is carried out simply, quickly and at low cost" (Mertokusumo, 1979). In order to realize a simple, fast and cheap process, peace efforts are arranged, namely by integrating the mediation process in court. This is regulated in Article 130 paragraph (1) HIR (*Revised Indonesian Regulations*) stated that: "If on that appointed day, both parties come, then the District Court with the help of the Chief Judge will try to reconcile them" (Ropaun, 2006).

Mediation is also often used in the field of civil procedural law. Civil cases are cases concerning disputes over the relationship between one individual (legal subject) and another individual regarding rights and obligations/orders and prohibitions in the civil field such as disputes over sale and purchase agreements, rent, distribution of joint assets and so on.*Sudikno Mertokusumo*, stated that the dispute (*contentment*) or those that do not contain disputes (voluntair) (Sarwono, 2012). The role of the judge in trying to settle cases peacefully is very important. Peace decisions have a very important meaning for society in general and especially for people who seek justice (justitiabelen). Disputes are completely resolved, the resolution is fast and the costs are light, apart from that the hostility between the two parties to the litigation is reduced. This is much better than if the case is decided by an ordinary decision, where for example the Defendant is defeated and the decision must be carried out by force (Puspitaningrum, 2018).

Optimizing the mediation process is very important considering the high desire of justice seekers to use legal remedies in civil cases which results in a backlog of cases in the high court and the Supreme Court. In civil cases, parties seeking justice tend to use all available legal remedies, from appeal, cassation to judicial review (PK), even many cases where the object of the dispute is very small, are still submitted to the level of review at the Supreme Court. Apart from that, in reality so far there are still obstacles in taking mediation procedures carried out by the parties in resolving civil disputes at the District Court, especially those related to good faith.

The success of a mediation process is greatly influenced by several factors, such as: the ability of the mediator, the mediation agreement by the parties, the role of the legal adviser (lawyer), the provisions of mediation, and the institution of mediation. These factors constitute an interrelated system (Sitourus, 1998). Based on the explanations and descriptions above, that mediation is a mediating procedure that is a solution for the Court in overcoming the accumulation of cases and is a necessity for people who are still traditional, modern society and even post-modern society in seeking and finding justice. but in fact the success of mediation in the district court is very low, especially in civil lawsuit cases, which prioritize settlement of cases through mediation, to find out the problems that occur in accordance with the reality of the legal regulations in the district court.

II. RESEARCH METHODS

The type of research used in writing this scientific work (thesis) is to use empirical research methods and use qualitative analysis methods. Which is a legal research method that functions to be able to see law in a real sense and examine how law works in society (Irwansyah, 2021). Empirical studies are studies that view law as a reality, including social realities, cultural realities, and so on (Heryani, 2012). Because this research examines people in the relationship of life in society, the empirical legal research method can be said to be sociological legal research (Rustandi, 2017). This research begins with an inventory of legal regulations related to mediation in the next court to find out how these legal regulations are applied and the obstacles encountered in resolving civil lawsuit disputes in the District Court (Tesis, 2005). In empirical legal research, there are 2 (two) techniques for data collection that can be used, either used individually or used together at once. The two techniques are interviews includes staff/employees of the district court, judges and mediators of judges and non-judges of district courts, legal practitioners/advocates, parties and questionnaires is data collection by using and studying documentation or documents in the form of archives of records, as well as tables, places used as research, where the existing documents will

provide an overview related to the problem to be studied. As for the analysis of the data used by the authors in this study using descriptive nature, namely the author in analyzing wishes to provide an overview or explanation of the subject and research object as the results of the research conducted by the author. As well as using a qualitative approach, which is a way of analyzing research results that produce analytical descriptive data, namely data stated by respondents in writing or orally as well as real behavior, which is researched and studied as a whole to find conclusions.

III. DISCUSSION RESULTS

Application of Mediation Procedures in District Courts

Mediation is an alternative in resolving disputes. Mediation is a process of negotiation to solve a problem through an impartial and neutral outside party who will work with the disputing parties to help find a solution in resolving the dispute satisfactorily for both parties. Third parties who help resolve the dispute with a mediator. The mediator does not have the authority to give a decision on the dispute, but only serves to assist and find a solution for the parties to the dispute. The experience, ability and integrity of the mediator is expected to streamline the negotiation process between the disputing parties (Fuady, 2000).

In principle, mediation can be interpreted broadly and narrowly. Broadly speaking, namely the settlement of disputes carried out both by third parties, outside the justice system and within the justice system. Those carried out outside the judicial system are mediation, arbitration and others. While what is carried out in the justice system is known as*Court Annexed Mediation* or also called*Court Annexed Dispute Resolution* (Suharto, 2005).

Table 1. Civil Lawsuit at Sengkang District Court Class IB 2022

Civil action	The amount of things	In the process	Failed Mediation	Successful Mediation
PMH	13	1	11	1
Land dispute	21	1	18	2
Default	2	0	0	1
divorce	2	0	0	0
TOTAL	38	2	32	4

In the table above, it can be seen the number of cases and the success rate of successful mediation and mediator judges in 2022 as follows:

Lawsuit for Unlawful Acts, number of cases 13, successful mediation is 1, Object Lawsuit of Land Dispute, number of cases 21, successful mediation is 2. Default lawsuit, number of cases 2, successful mediation is 1 and Divorce Lawsuit, number of cases 2, successful mediation 0 , so the number of civil lawsuit cases in 2022 is 38 and 4 have been successful in mediation.

Table 2. Civil Lawsuit at the Maros District Court Class IB 2022

Lawsuit Matters	Number of Items	In the process	Failed Mediation	Successful Mediation
PMH	29	0	29	0
Default	8	0	7	1

Divorce	7	0	7	0
Others	2	0	2	0
TOTAL	46	0	45	1

In the table above, it can be seen the number of cases and the mediation success rate and the names of successful mediator judges in 2022 as follows:

Unlawful Act lawsuit, number of cases 29, successful mediation is 0, Default lawsuit, number of cases 8, successful mediation is 1. Divorce lawsuit, number of cases 2, successful mediation is 0 and Other lawsuits, number of cases 2, successful mediation 0 , so the number of civil lawsuit cases in 2022 at the Maros Class IB District Court is 46 and only 1 has succeeded in mediation, namely a breach of contract.

Table 3. List of Judge Mediators Sengkang District Court Class IB

No	Name	Department	Address	Information
1	Andi nur haswah.s.h.	Judge	Jl. Bau baharuddin, skg	Certified
2	Hj. Aisyah adama, s.h., m.h	Judge	Jl. Bau baharuddin, skg	Certified
3	Erwan,s.h.,m.h.	Judge	Jl. Bau baharuddin, skg	Certified
4	Yusrimansyah, s.h.	Judge	Jl. Bau baharuddin, skg	Certified

Junior Civil Registrar Hj. Wahida Achmad stated that all of the mediator judges at the Sengkang District Court were certified. The mediator judges carried out the mediator's duties on days when there were no scheduled hearings. In an effort to make it easier for the parties to choose the mediator that the parties want, the Registrar's Office of the Sengkang District Court, on the orders of the Leader, has posted a list of mediator names in a place that is easy for the parties to see, complete with photos of the mediators. However, the table above does not contain the name of the non-judge mediator, the Sengkang District Court mediator judge Mr. Erwan stated that so far the Sengkang District Court has not received notification or submission to the Sengkang District Court regarding a certified non-judge mediator and so far none of the parties have voted non-judge mediator even though it is possible.

Table 4. List of Judge Mediators Maros District Court Class IB

No	Name	Department	Address	Information
1	Khairul, Sh. Mh.	Chief	Pn. Maros	Certified
2	Sofian Parrungan, Sh.Mh	Vice Chairman	Pn. Maros	Certified
3	Farida Pakaya, Sh.Mh.	Judge	Pn. Maros	Certified
4	Fita Juwiati,Sh.Mh.	Judge	Pn. Maros	Certified
5	Abdul Hakim, Sh.Mh.	Judge	Pn. Maros	Certified
6	Sri Widayati,Sh.	Judge	Pn. Maros	Certified

The Chairperson of the Maros District Court class IB, Khairul stated that all the mediator judges at the Maros District Court were certified. The mediator judges carried out the duties of a mediator on days when there were no scheduled hearings. In an effort to make it easier for the parties to choose the mediator that the parties want, the Registrar's Office of the Maros District Court, on the order of the Leader, has posted a list of mediator names in a place that is easy for the parties to see, complete with photos of the mediators. However, in the table above there are no names of non-judge mediators, Chairman of the Maros District Court Mr. Khairul stated that at the Maros District Court there was once 1 (one) Non-Judge Mediator who registered but we refused because the person concerned works as an advocate, we are concerned that the person concerned has an interest certain conditions so that it can harm one of the parties, so we reject the person concerned. In the mediation process at the Maros District Court it is carried out by a certified Mediator Judge. Several stages of mediation at the Class IIB Sengkang District Court and Class IIB Maros District Court are:

a. Pre Mediation

After the civil suit case has entered the Sengkang District Court or the Maros District Court, the Chief Justice and Chief Registrar form a panel of judges and set a trial date. At this first session, it was also explained about the Mediation procedure, such as: Definition and Benefits of Mediation, Obligation of the parties to attend and act in good faith in the Mediation Process, follow-up to the Settlement Agreement, Signing of the Mediation Explanation Form. In Mediation, the presence of the Parties can be represented by their proxies on the basis of a Special Power of Attorney, but if the Mediator wishes to conduct a caucus, the Parties must be represented directly and may not be represented, in which the caucus is a Mediator's Meeting with one party without the presence of the other party.

After the appointment of the Mediator, the Mediator determines the day and date of the Mediation meeting. The summons of the parties is carried out by the Bailiff on the order of the Judge by law without the need for a power of attorney. Regarding the costs of calling for Mediation, the plaintiff will be charged in advance through the down payment of court fees. In making the summons as mentioned above, it can be done without a special power of attorney made, so that without any instrument from the Case Examining Judge, the Bailiff is obliged to carry out the orders of the Judge Mediator and non-judge Mediator to summon the parties.

b. Mediation Process

The stages of the Mediation Process are informal stages in the sense that they are not sequentially regulated in Supreme Court Regulation Number 1 of 2016, but there are several stages that are customary to do. At the first Mediation meetingOpening statement Introducing themselves and inviting the parties to introduce themselves, the parties are explained again about the Mediation (the meaning, aims and objectives, and the nature of confidentiality, Explain the role of the mediator in the non-interference and neutrality functions of the mediator and only as a facilitator. Explain the rules for negotiations not to interrupt, attack, maintain conditionality and the Mediation rules were also agreed upon by the parties in relation to the next Mediation meetings or the preparation of the Mediation meeting schedule. The agreement between the parties and the mediator is not regulated sequentially in the Supreme Court Regulation Number 1 of 2016, but there are several matters regulated in the Supreme Court Regulation, including: In Article 24 PERMA Number 1 of 2016, namely within 5 (five) five) days after the decision of the Mediator, the Parties may submit the Case Resume to the Mediator and other Parties. This case summary contains the situation of the case and what settlement or peace efforts are being sought. The intended submission of case resumes is intended so that the parties and the mediator can understand the dispute to be mediated. Case resumes may contain Mediation Settlement Offers, which are in the form of the principal wishes of the Parties to settle the Case. Article 26 of Supreme

Court Regulation Number 1 of 2016 Mediation can involve experts and community leaders based on the agreement of the parties. The expert referred to in this PERMA is not explained in detail, so that it can be analogized that the provisions regarding this expert are based on judicial provisions in general, namely people who because of their education or experience for a long period of time in pursuing a particular profession. Community leaders in question include community leaders, religious leaders or traditional leaders. The strength of the binding of the opinions of experts and community leaders is in accordance with the agreement of the parties whether or not they are bound by this opinion. Related to the costs arising from the use of Experts are borne by the agreement of the Parties. If necessary and upon agreement of the parties, mediation can also be carried out remotely using a communication device.

If the parties cannot reach an agreement in the Mediation after reaching the 30-day deadline or along with its extension, there is one of the parties who does not have good faith in carrying out the Mediation, the Mediator must declare the Mediation failed and notify the Examining Judge of the Case. The Mediator must declare that the Mediation cannot be carried out along with a written notification to the Examining Judge of the Case. However, Perma No. 1 of 2016 does not regulate the number of meetings in the mediation process, only the 30 day time limit and its extension.

However, if the parties in the mediation process reach an agreement as outlined in the Settlement Agreement, the Parties can choose to strengthen the Settlement Agreement with the Deed of Settlement or withdraw the lawsuit.

2. Obstacles in the Mediation Process at the Sengkang District Court and the Maros District Court

It has been changed several times but in its implementation many have failed. There is a gap between reality and expectations, due to several obstacles that are the causal factors. The factors inhibiting the success of mediation in the Class IB Sengkang District Court and the Class IB Maros District Court are as follows: (ABNP, 2023).

a. Selfish

Cases are brought to court because they only want to win, if a mediation process is carried out they don't want to bargain because they are very sure that he will win based on the evidence he has, so he doesn't want the mediation process to continue with the trial process, there is no more desire to reach an agreement or middle way, the best way for both parties.

b. External Factors

The family's encouragement to continue to the trial process and even during the mediation process the family also entered the mediation room, and also the encouragement of advocates to continue to the trial.

c. Lack of Understanding About Mediation

Their understanding of mediation is very low, they feel that there is no certainty in mediation because no one wins or loses. What they want is certainty with victory in the trial process. The community considers that cases that have been registered in court do not need mediation because mediation has been carried out before the case is registered.

d. Absence of Parties

the absence of the parties or one of the parties without a clear reason even though the presence of the parties in the mediation process is very decisive, because it is impossible for the mediation process to be carried out, if one of the parties is not present at the scheduled meeting. Attendance will also determine the good faith of the parties in carrying out the peace process, so that if the

parties/one of the parties does not want to attend the scheduled meeting, it can be seen that the parties do not have good faith in resolving the dispute peacefully. Even though the success of mediation is largely determined by the good faith of the parties, because it is the parties who determine the success of mediation because they are active and play an important role in making decisions in the mediation process, which is different from the trial process, which makes decisions based on the evidence submitted. the parties.

e. Past the Deadline
The reason that can cause mediation to be unsuccessful or unable to be carried out is because the time limit specified by the PERMA provisions has passed. According to Article 24 Paragraph (2) it is stated that: The mediation process lasts no longer than 30 (thirty) days from the issuance of the order to conduct mediation. Whereas Article 24 Paragraph (3) states that: On the basis of the agreement of the parties, the mediation period can be extended for a maximum of 30 (thirty) days from the end of the period referred to in paragraph (2).

f. Advocate Aspect
There are advocates who tend to defend the case from proceeding to trial and tend to forbid their clients from mediating. Legal advisors tend not to want to inform the parties about mediation which is mandatory for the parties. This is due to the problem of honorarium, especially if there is already an agreement on payment based on the time of the trial, so that it is encouraged to continue with the trial process.

g. Mediator Aspect
Referring mediator, carrying out mediation is only limited to formalistic obligations before the trial. there is the rigidity of the Mediator Judge in carrying out the Mediation because there is no legal rule that allows the Mediator Judge to meet the parties outside the Court.

IV. CONCLUSION

The implementation of Mediation at the Sengkang District Court and the Maros District Court is in accordance with PERMA Number 1 of 2016, but in the implementation of mediation at the Sengkang District Court and the Maros District Court there are several obstacles in the implementation of mediation. This can be seen from the number of successful mediations in each court. State and also the results of interviews with the Judge Mediator who stated that there were several obstacles encountered, namely the issue of selfishness of one of the parties or the parties in the mediation process, the existence of external factors, advocate factors, the absence of one of the parties or the parties until the time limit had passed. given. Whereas according to the author of Perma No. 1 of 2016 Concerning Mediation there are still some deficiencies including, there are no rules that can compel one of the parties not to attend the mediation process, there are no clear rules regarding the incentives of mediator judges and there are no strict rules regarding the use of non-mediators judges who have been certified so that the parties prefer to use mediator judges who have been provided by the court. Therefore, another alternative is to revise Perma No. 1 of 2016. This can be implemented if the Supreme Court is serious about empowering mediation in district courts.

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