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The Use Of Mediation As An Alternative Dispute Resolution In Oil And Gas Dispute

Sabela Gayo[1]
[1]Fakultas Hukum, Universitas Bhayangkara Jakarta Raya, Jakarta Selatan, DKI Jakarta 12550, Indonesia

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ABSTRACT

Regulation of oil and gas mining business activities in Indonesia has changed several times since the Dutch colonization until now the last with the transfer of BP Migas to Sksp Migas based on Presidential Regulation No. 95 of 2012 on the transfer of duties and functions of upstream oil and Gas business activities, which was followed by the issuance of the decree of the minister of energy and Mineral Resources No. 3135 Th. 2012 on the transfer of duties, functions and organizations in the implementation of upstream oil and Gas business activities and the decree of the minister of energy and Mineral Resources No. 3135 of 2012. In Law No. 22 of 2001 on oil and Gas and PP no. 35 years. 2004 on upstream oil and Gas business activities, there is no article that regulates the settlement of disputes in the event of a dispute between BP Migas and business entities and / or business forms. In practice, the dispute resolution clause is set forth in the agreement contract of the parties. Based on law no. 22 years. 2001, the parties are BP Migas with a business entity and / or permanent establishment. In the event of a dispute between BP Migas and a business entity, the law used is Indonesian law because both parties are legal entities established under Indonesian law and they are subject to Indonesian law. In the event of a dispute between a permanent establishment and BP Migas, the parties usually use the International Chamber of Commerce (ICC) for example a permanent establishment is a foreign company operating in Indonesia. The choice of settlement outside the court in oil and gas disputes can include mediation, abitrase and others referring to the dispute resolution on oil and gas the right choice in settlement is with the mediassi mechanism where there is a greeting Law No. 30 of 1999 on arbitration and Alternative Dispute Resolution.

ABSTRAK

Pengaturan kegiatan usaha pertambangan minyak dan gas bumi di Indoensia mengalami beberapa kali perubahan sejak penjajahan Belanda sampai sekarang yang terakhir dengan dialihkannya BP Migas kepada SKSP Migas berdasarkan Peraturan Presiden Nomor 95 Tahun 2012 tentang Pengalihan Pelaksanaan Tugas dan Fungsi Kegiatan Usaha Hulu Minyak dan Gas Bumi, yang kemudian diikuti penerbitan Keputusan Menteri ESDM Nomor 3135 Th. 2012 tentang Pengalihan Tugas, Fungsi dan Organisasi dalam Pelaksanaan Kegiatan Usaha Hulu Minyak dan Gas Bumi dan Keputusan Menteri ESDM Nomor 3135 Tahun 2012. Di dalam Undang-Undang Nomor 22 Tahun 2001 tentang Minyak dan Gas Bumi dan PP No. 35 Th. 2004 tentang Kegiatan Usaha Hulu Minyak dan Gas Bumi, tidak ditemukan pasal yang mengatur tentang penyelesaian sengketa apabila terjadi sengketa anatar BP Migas dengan badan usaha dan/atau bentuk usaha. Dalam prakteknya klausula penyelesaian sengketa dituangkan dalam kontrak kesepakatan para pihak. Berdasarkan UU No. 22 Th. 2001, para pihak di dalam adalah BP Migas dengan badan usaha dan/ atau bentuk usaha tetap. Apabila terjadi sengketa antara BP Migas dengan badan usaha, maka hukum yang digunakan adalah hukum Indonesia karena kedua belah pihak merupakan badan hukum yang didirikan menurut hukum Indonesia dan mereka tunduk kepada hukum Indonesia. Apabila terjadi sengketa antara bentuk usaha tetap dengan BP Migas, biasanya para pihak menggunakan International Chamber of Commerce (ICC) misalnya bentuk usaha tetap merupakan perusahaan asing yang beroperasi di Indonesia. Pilihan penyelesaain diluar pengadilan dalam sengketa migas diantaranya bisa dengan mediasi, abitrase dan lainnya merujuk hal tesebebut maka penyelesaian sengketa tentang migas pilihan yang tepat dalam penyelesaian adalah dengan mekanisme mediassi dimana terdapat salam Undang-Undang Nomor 30 Tahun 1999 tentang Arbitrase dan Alternatif Penyelesaian Sengketa.

Corresponding Author:

Sabela Gayo,
Fakultas Hukum,
Universitas Bhayangkara Jakarta Raya.
Jl. Harsono RM No.67 Ragunan Pasar Minggu, Jakarta Selatan, DKI Jakarta 12550, Indonesia,
Email: sabela.gayo@gmail.com

I. INTRODUCTION

Indonesia's natural resources are very strategic and also have an important role in the national economy, among others, are natural resources in the form of oil and gas that must be used as much as possible for the prosperity of the people of Indonesia (Manery, 2022)(Muhammad Khoiri, Baehaqi, 2022). This is confirmed in Article 33 paragraph 3 of the 1945 Constitution (hereinafter referred to as the 1945 Constitution) which states that the earth, water and Natural Resources contained therein are controlled by the state and used for the greatest prosperity of the people (Elli Ruslina, 2012)(Limbong, 2017). In this case, the government is given authority by the state in the form of mining power to carry out exploration and exploitation of oil and gas (Kurniawan, 2018)(Kosanke, 2019). According To Law No. 22 of 2001 on oil and Gas (hereinafter abbreviated as the oil and gas law) exploration is an activity carried out in order to obtain information about geological conditions in order to find and obtain estimates of oil and gas reserves (Handojo, 2017). It is also emphasized in this law that exploitation is a series of activities aimed at producing oil and gas consisting of drilling and completion of wells, construction of transportation facilities, storage, as well as processing for separation and purification of oil and gas in the field and other activities that can support its implementation (Tamano, 2020)(Kurniawan, 2018).

Natural resource management is expected to maximally provide the welfare and prosperity of the people, so that management activities are very important to be carried out properly (Abidin, 2017)(Surono, 2017). However, specific means are intended to overcome the problems in the exploration and exploitation of oil and gas mining (Famelasari & Prastiwi, 2021)(Kurniawan, 2018). These problems include in terms of limited capital, technology, and human resources so that oil and gas disputes arise such as oil and gas contract disputes (Lubis, 2019). This cooperation contract is carried out between the government and the contractor which is a business entity and permanent establishment (Djati, Miranadia; Kashadi; Badriyah, 2016)(Putuhena, 2015)(Ariyon, 2012), in its development, this cooperation contract becomes crucial because it is caused by many parties who have interests in oil and gas so that this then raises the urgency of protecting state assets in oil and gas management.

Based on the background of the problems mentioned above, the research problem is formulated: first, how the rule of law of business activities in Indonesia; Second, What is the Alternative Dispute Resolution in the proper settlement of oil and gas disputes.

II. RESEARCH METHOD

The research method used in collecting data for writing this thesis is as follows:

1. Types and Nature of Research

This type of research is a normative juridical type, that is, a research method that is a type of sociological legal research and can be referred to as field research, which examines the legal provisions in force and what has happened in people's lives. This study uses the statutory approach, concept and case approach. Especially in this case regarding the settlement of oil and gas disputes.

2. Types and Sources of Data

The data collected in this study can be classified into two, namely:

a. Primary Data (Field Research) in the form of data obtained directly by researchers in the field by interviewing or observation.
b. Secondary Data (literature research) in the form of literature and other literature sources, namely Law No. 22 of 2001 on oil and Gas and PP No. 35 years old. 2004 on upstream oil and Gas business activities, Presidential Regulation No. 95 of 2012, decree of the minister of energy and Mineral Resources No. 3135 Th. 2012.
c. Tertiary Data in the form of material that provides an explanation of primary and secondary data such as internet material, judicial varia magazine.

3. Data Collection Techniques

The data collection techniques of this research consisted of the main data collection techniques and the supporting data collection techniques. The main data collection technique is the researcher himself while the supporting data collection techniques are a list of questions, field notes. Field data collection will be carried out by means of interviews, both in a structured manner. Structured interviews were conducted with guidelines on a list of questions that had been provided by the researcher. The material is expected to develop according to the answers of the informants and the developing situation.

4. Data Analysis Techniques

Data analysis in this study was carried out qualitatively, namely from the data obtained and then compiled systematically, then analyzed qualitatively to achieve clarity of the problems discussed. Qualitative data analysis is a research method that produces descriptive data analysis, namely what is stated by the respondent in writing or verbally as well as real behavior, researched and studied as a whole. The meaning in the analysis here is intended as an explanation and interpretation in a logical, systematic manner with a sociological approach. Systematic logic shows how to think deductively by following the rules in writing scientific research reports. After the data analysis is complete, the results will be presented descriptively, namely by telling and describing what is in accordance with the problems studied. The results are then drawn a conclusion which is the answer to the problems raised in this study.

III. RESULT AND DISCUSSION

1. Legal Mechanism of Oil and Gas Business Activitie

Oil and gas mining has long been an important concern even before independence. This was also triggered by the development of the Industrial Revolution which changed the face of the world to be very thirsty for oil and gas as a support for industrial machinery. For decades, Indonesia's economy has been supported by the dredging of oil and gas. Oil and gas are strategic commodities that become one of the mainstays of income for Indonesia. Until now, Indonesian people are very dependent on oil and gas, not only because oil and gas is needed by the industrial sector, but oil and gas is also widely used for household purposes, transportation both by land, sea and air. The important position of oil and gas mining can be seen in its regulation which is carried out separately from General Mining, namely In Law Number 22 of 2001 concerning oil and Gas.

Oil began to be known by the Indonesian people in the Middle Ages. The first discovery of oil resources in Indonesia occurred in 1883 by a Dutchman named A.G. Zeijlker at Telaga Tiga and Telaga Said oil fields near Pangkalan Brandan. This discovery was followed by other discoveries in Pangkalan Brandan and Telaga Tunggal. Furthermore, towards the end of the 19th century there were several foreign companies operating in Indonesia. In 1935, to explore petroleum in the area of

Irian Jaya formed a joint company between B.P.M., N.P.P.M., and N.K.P.M. his name is N.N.G.P.M. (Nederlandsche Nieum Guinea Petroleum Mij) with exploration rights for 25 years.

The basic conception of oil and gas mining in Indonesia is Article 33 paragraph 2 and Paragraph 3 of the 1945 Constitution after the amendment which formulates that "the branches of production that are important to the state and which control the livelihood of many people and the wealth of earth, water and Natural Resources contained therein are controlled by the state and used for the greatest prosperity of the people". These two verses affirm the " control by the state" and its "use for the greatest prosperity of the people" of the natural resources and branches of production that are essential to the state and that control the livelihood of the people. The formulation confirms the authority of the state, which is further formulated in Article 2 Paragraph 2 of Law Number 5 of 1960 on agrarian principles, which include :

a) Organize and organize the designation, use,supply and maintenance of the earth, water and space.
b) Determine and regulate the legal relations between people and the earth, water and space.
c) Determine and regulate the legal relations between people and the legal acts concerning the earth, water and space.

It is further formulated in Article 2 Paragraph 3 of Law No. 5 of 1960 that "the authority derived from the right to control of the state as formulated in Paragraph 2 of this article is used to achieve the greatest prosperity of the people in the sense of nationality, welfare and independence in society and an independent Indonesian Legal state,sovereign, just and prosperous". State control over oil and gas resources is reaffirmed in Article 4 of Law No. 22 of 2001, that oil and gas are non-renewable strategic natural resources contained in the Indonesian mining jurisdiction and are national wealth controlled by the state.

Control by the state of Natural Resources aims to create national security in the field of energy (National Energy Security) in the Unitary State of the Republic of Indonesia with the main target of the supply and distribution of energy in the country. The government is obliged to provide and distribute energy throughout the territory of the Unitary State of the Republic of Indonesia. National security in the field of energy requires the ability of the government to conduct energy management, with due regard to the principles of justice, independence, sustainable, and environmentally sound. Although the state has absolute power to do the concept of control over the management and control of oil and gas as referred to in Article 33 of the 1945 Constitution, but in reality it cannot be executed (non executable), so there needs to be a party authorized to exercise the authority, in the sense that it is regulated and organized by parties authorized by the state and acts for and on behalf of the state based on applicable laws and regulations.

Furthermore, the management of Indonesian oil and gas is under the Ministry of Finance with the authority to appoint contractors to carry out work that has not been or cannot be carried out by state companies. Consequently all oil and gas mining concessionaires namely Shell, Stanvac and Caltex at the time switched become a state enterprise contractor. Then there was also a change in the state mining company, that based on Law Number 19 Prp. The 1960s State enterprise and Law Number 44 Prp. In 1960, NV Niam (owned by the government and Shell) was changed to PT PERMINDO which later became Perusahaan Negara Pertambangan Minyak Indonesia (PT PERTAMIN) based on Government Regulation No. 3 of 1961. Following PT TMSU in North Sumatra was also changed to PT Perusahaan Minyak Nasional (PT PERMINA), which later became PN PERMINA.

In the mid-1960s, all petroleum and natural gas assets that had been under contract of work were controlled by the state whose management was carried out through state companies, namely PN PERTAMIN, PN PERMINA, and PN PERMIGAN. Furthermore, PN PERTAMINA and PN PERMINA became PN PERTAMINA on the basis of Government Regulation No. 27 of 1968 which later changed

to PERTAMINA based on Law No. 8 of 1971 concerning state oil and Gas mining companies, as the only state company holding mining power in Indonesia which mandates that oil and gas mining concessions are only carried out by state companies. Pertamina as an "Integrated State Oil Company" has the task of implementing oil and gas mining. Pertamina also gets Mining Power which includes exploration, exploitation, refining and processing, transportation and sales. With the establishment of the state company is intended to provide flexibility and optimization of oil and gas exploitation which is a technical and strategic choice, both in terms of legal and commercial economy.

Furthermore, the exploitation of the national oil and gas mining industry is carried out with the concept of monopoly, meaning that Pertamina as the holder of oil and gas mining power holds control over all oil and gas business activities ranging from upstream (exploration and production) to downstream (marketing). If Pertamina wants to cooperate with other parties, the other party must still be a contractor of Pertamina, not as a co-owner of the company formed. In addition, it must also meet certain conditions and apply after approval by the president and then notified to the House of Representatives. The conditions in such cooperation should be worked out the most favorable conditions of the state.

On November 23, 2001, Law No. 22 of 2001 on oil and Gas was passed, due to Law No. 44 Prp. In 1960 it was considered incompatible with the development of oil and gas mining business in the national and international level. With the enactment of Law No. 22 of 2001 on oil and Natural Gas, then based on the closing provisions formulated that the legislation below is declared no longer valid, namely :

a) Law Number 44 of the Prp. 1960 on oil and Gas mining;
b) Law No. 15 of 1962 on the establishment of PERPU No. 2 of 1962 on the obligation of oil companies to meet domestic needs;
c) Law No. 8 of 1971 on state oil and Gas Mining Company, along with all amendments, most recently with Law No. 10 year 1974;

As for All Implementing Regulations of Law Number 44 Prp. 1960 and Law No. 8 of 1971 declared to remain valid as long as it does not conflict or has not been replaced by new regulations based on law no. 22 years old. 2001 to develop the National ability to be more competitive; (3) to increase state revenue and contribute as much as possible to the national economy, to develop and strengthen Indonesia's industry and trade; and (4) to create jobs, to improve environment, increasing the welfare and prosperity of the people.

Changes in the oil and Gas Law are widely seen as liberalizing the oil and gas sector in Indonesia, while amendments to the oil and Gas Law are a package of policies that must be carried out by Indonesia as a condition for obtaining assistance from the IMF to face the 1998 financial crisis. The impact of the implementation of the oil and Gas Law is that Pertamina's assets are much reduced from their origin. In addition, the oil and gas business process is very complicated and causes the cost of oil and gas production in Indonesia is increasingly expensive and results in rising selling prices to the public. Another impact is the formation of the oil Management Agency and natural gas, namely the oil and Gas Management Agency (BP Migas), as formulated in Article 2 and Article 3 of Law Number 22 of 2001 that control by the state is held by the government as the holder of mining power by forming an oil and Gas Management Agency then take over control and get rid of Pertamina as the power holder of the oil and gas business which in fact is the National Oil Company in Indonesia. The provisions for the establishment of oil and gas implementing agencies are regulated later in Government Regulation No. 42 of 2002 concerning upstream oil and Gas implementing agencies.

Implementing agency is an agency established to control upstream business activities in the field of oil and gas. The position of the implementing agency is a state-owned legal entity. A state-owned

legal entity has the status of a state-owned legal subject and is also a subject of Civil Law and is a non-profit and professionally managed institution. The function of this implementing agency is to supervise upstream business activities so that the extraction of Natural Resources of oil and gas owned by the state can provide maximum benefits and revenues for the State for the greatest prosperity of the people (Article 44 paragraph (2) of Law No. 22 of 2001 on oil and Gas, Article 10 of Government Regulation No. 42 of 2002 on upstream oil and Gas implementing agency). Furthermore, BP Migas is the supervisor and supervisor of the cooperation contract contractor (KKKS) in carrying out exploration, exploitation and marketing activities of Indonesian oil and gas.

As for carrying out downstream oil and gas activities, the government forms the downstream oil and Gas Regulatory Agency (BPH Migas) which is formulated in Article 1 number 24, Article 8 paragraph (4), Article 46 to Article 49 of Law Number 22 of 2001 on oil and Gas. Regulatory agency is a body established to regulate and supervise the supply and distribution of fuel oil and natural gas. After approximately eleven years of Law No. 22 of 2001 on oil and Gas took part in regulating the management of natural resources of oil and gas which in fact is controlled by the state, and the operation of BP Migas as a long hand of the government in carrying out its duties for approximately ten years, on November 13, 2012, the Constitutional Court made a decision to dissolve the upstream oil and Gas implementing agency.

Through Decision No. 36/PUU-X / 2012 which was read by the chairman of the Constitutional Court judges, stated the articles governing the duties and functions of BP Migas as stipulated in Law No. 22 of 2001 on oil and Gas contrary to Article 33 of the 1945 Constitution. Furthermore, the functions and tasks of BP Migas are carried out by the cq government. Related ministries, until there is a new law that regulates it. Upon the decision of the Constitutional Court, on November 13, 2012, the president of the Republic of Indonesia signed Presidential Regulation No. 95 Year 2012 on the transfer of duties and functions of upstream oil and Gas business activities which essentially transfer BP Migas to the Ministry of energy and Mineral Resources (Ministry of energy and Mineral Resources).

Presidential Regulation No. 95 of 2012 on the transfer of duties and functions of upstream oil and Gas business activities, the minister of energy and Mineral Resources issued Decree of the minister of energy and Mineral Resources No. 3135 of 2012 on the transfer of duties, functions and organizations in the implementation of upstream oil and Gas business activities, followed by the issuance of Decree of the minister of energy and Mineral Resources No. 3136 of 2012. In accordance with the rules of the minister, the government established a temporary working unit (SKSP) oil and gas as a temporary replacement for BP Migas until the issuance of the law- new law. Minister of energy and mineral resources at the same time served as head of SKSP Migas. The formation of SKSP Migas is a quick effort by the government so that all oil and gas activities from exploration, production, to supporting services run normally after the dissolution of BP Migas.

2. Alternative Dispute Resolution In Oil And Gas Dispute Resolution

Oil and gas are controlled by the state. The purpose of control by the state is so that the national wealth can be utilized for the greatest prosperity of all Indonesian people. This is in accordance with the provisions of the 1945 Constitution Article 33 paragraph (2) and Paragraph (3) after the amendment which confirms that the branches of production that are important to the state and which control the livelihood of many people are controlled by the state. Likewise, the earth, water and Natural Resources contained therein are controlled by the state and used for the greatest prosperity and welfare of the people.

Considering that oil and gas are strategic non-renewable natural resources controlled by the state and are vital commodities that play an important role in the provision of industrial raw materials, meeting domestic energy needs, and producing important state foreign exchange, its management needs to be done as optimally as possible so that it can be utilized as much as possible for the

prosperity and welfare of the people. Thus, both individuals, communities and businesses, even though they have rights to a piece of land on the surface, do not have the right to control or own the oil and gas contained therein.

In the context of the right to control the state in the field of oil and gas mining as referred to Article 33 paragraph (3) of the 1945 Constitution after the amendment, there is no provision in the legislation, either Law Number 44 Prp. 1960 on oil and Gas mining, as well as Law No. 22 of 2001, which explains the meaning and scope of the purpose of the right to control the state. The notion of the right to control the state is found in the agrarian Basic Law (UUPA), giving the meaning of "the right to control from the state", namely the authority to:

a) Organize and organize the alteration, use, supply and maintenance of the earth, water and space;
b) Determine and regulate the legal relations between people and earth, water, and space;
c) Determine and regulate legal relations concerning earth, water, and space
Control by the state is held by the government as the holder of mining power.

The downstream oil and Gas Regulatory Agency (BPH Migas) in the legal discussion discussed alternative dispute resolution related to dispute resolution in the field of downstream oil and gas. BPH Migas has the responsibility to provide alternative dispute resolution in the field of downstream oil and gas. Because the downstream oil and gas sector there are about 200 business entities that have a general trading license and in the transmission network sector and natural gas pipelines there are at least 50 business entities that have permits in the field of pipelines and transmissions. From so many business entities that have a general commercial business as well as transmission and piping permits. There will likely be frequent disputes in the downstream and natural gas fields. Therefore, it is expected that there is an alternative solution to resolve disputes in downstream oil and gas.

Oil and gas investment policy in Indonesia is unpredictable because of the frequent changes that occur in the policy of exploration and exploitation. Oil and gas investment rules can not be separated from the rules that apply to other sectors. This burdens producers who are harmed by investing in the oil and gas sector which in the long run can harm the Indonesian economy as a whole.

Conceptually, dispute resolution conducted by the governing body as the provision refers to the construction of non-litigation dispute resolution (out of court) and is an alternative, so the concept examined in this study is the concept of Alternative Dispute Resolution (ADR). ADR according to Robert H Mnookin, refers to a set of practices and techniques aimed at permitting the resolution of legal disputes outside the courts, it is normally thought to encompass mediation, a variety of hybrid processes by which a neutral facilitates the resolution of legal disputes without formal adjudication.1 this principle is then set forth in Law Number 30 of 1999 concerning arbitration and Alternative Dispute Resolution (APS law) which explicitly states that arbitration is a way of resolving a civil dispute outside the general court based on an arbitration agreement made in writing by the parties to the dispute; while Alternative Dispute Resolution is a dispute resolution institution or dissent through procedures agreed upon by the parties, namely out-of-court settlement by means of consultation, negotiation, mediation, conciliation or expert assessment.

In general, the ADR applied by the governing body is a combination of ADR inside the court as applied to the United States legal system and ADR outside the court as applied by the Korean Commercial Arbitration Board etc. This interpretation is done because the disputes resolved by the governing body have the opportunity to be objected to, thus the provisions issued by the governing body are not final and binding. The parties to the dispute based on this norm are business entities which are defined as companies in the form of legal entities that carry out business types that are permanent, continuous and established in accordance with applicable laws and regulations and work and are domiciled in the territory of the Unitary State of the Republic of Indonesia (NKRI)

(Article 1 Number 17 of the oil and gas law). To a business entity established and incorporated outside the Republic of Indonesia that carries out activities in the territory of the Republic of Indonesia and is obliged to comply with the laws and regulations in force in the Republic of Indonesia is referred to as a permanent establishment and is a legal subject in Indonesia as well (Article 1 Number 18 of the oil and gas law).

At the hearing held on February 13, 2020 between the governing body and the House of Representatives of the Republic of Indonesia, one of them discussed the role in resolving disputes (mediation) in the field of fuel and natural Gas through pipes which relied on three interests, namely the government, business actors and the community. Thus what the governing body interprets regarding dispute resolution is only on the mediation mechanism. Mediation is a process of dispute resolution of the parties carried out with the help of a mediator or a third party who is neutral and impartial and berugas as a facilitator, while the decision to reach an agreement will still be left to the parties and not by the mediator. Then the role of the governing body in the settlement of some disputes acts as a mediator. In the view of Jacqueline M and Nolan Haley, there are several stages consisting of screening, mediator describes process and role of mediator and mediator assists parties in drafting agreement, so that dispute resolution is carried out based on the agreement of the parties and for the mediator to act as an organizer of the meeting; leader of the neutral discussion process; maintainer of; controlling the emotions of the parties and driving the parties who are less able to express their opinions.In line with the understanding in the Collins English Dictionary and Thesurus which states, mediation is an activity to bridge between two disputing parties to produce an agreement or agreement.

The form of dispute resolution is done by mediation, the resulting decision is based on the agreement of the parties. Unlike the context with arbitration where one or more arbitrators have full power and are active in resolving business disputes. The result of this arbitration process is in the form of an arbitration award. An arbitration award is a decision that is binding on the parties and through a simple or direct procedure can be implemented as contained in the explanatory provisions of the APS law. However, at the practical level in Indonesia, the execution of the arbitration award is still constrained even though the APS law has legitimized the final and binding decision. in addition, Indonesia has also ratified the New York Convention in 1958 through Presidential Decree No. 34 of 1981 on ratifying the Convention on the Recognition and Enforcement of Foreign Arbitral Awards which was signed in New York on June 10, 1958 and has entered into force on June 7, 1959 which requires every arbitration award determined to be executed.

Between agreement resulting from the mediation process conducted by the governing body has a lower implementation validity compared to arbitration. Because in the APS law it is stated that, Article 59 of the AP law, within a maximum of 30 (thirty) days from the date the decision is pronounced, the original sheet or an authentic copy of the arbitration award is submitted and registered by the arbitrator or his proxy to the Registrar of the District Court. If this process is not carried out, it implies that the arbitration award cannot be implemented, so that the legitimacy of the arbitration award executoir remains with the local district court panel of judges. Unlike the mediation agreement which is only an agreement to reconcile and settle obligations and/or obligations adjusted by the parties only.

IV. CONCLUSION

At present the laws and regulations regarding the formal process of resolving oil and gas disputes do not exist. Therefore the urgency in the determination of regulation a quo in order to resolve disputes governing bodies have rigid guidance, but it also aims to ensure legal certainty of business entities. On the other hand, content material related to the position and legal relationship of the governing body in dispute resolution must be included so that it becomes clear the role of each party. Alternative

dispute resolution through mediation is the right first step of the legal process to seek alterative settlement although the agreement resulting from the mediation process conducted by the governing body has a lower implementation validity compared to arbitration.

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