

Analysis Of Flow Process Of Employee Termination Dispute Resolution Settlement Based On Law No. 02 Year 2004

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Abstract

This study aims to determine the Termination of Work Relations Dispute Settlement according to Law No. 2 of 2004. This research uses descriptive qualitative research methods and library research with the approach of material / primary data, material / secondary data, and material / tertiary data. The results of the study state that if no agreement is reached, either party or party can file a lawsuit to the industrial relations court at the local district court where the worker or laborer works. The length of the mediation process is prolonged because many parties want to interfere in mediation.

Keywords: IRC Flow, Efficiency of IRC Process, Settlement of Dispute Resolution

Abstrak

Penelitian ini bertujuan untuk mengetahui Penyelesaian Sengketa Pemutusan Hubungan Kerja menurut UU No. 2 Tahun 2004. Penelitian ini menggunakan metode penelitian deskriptif kualitatif dan studi pustaka (library research) dengan pendekatan material / data primer, data material / sekunder, dan data material / tersier. Hasil penelitian menyatakan Jika tidak ada kesepakatan tercapai, salah satu pihak atau pihak dapat mengajukan gugatan ke pengadilan hubungan industri di pengadilan distrik setempat di mana pekerja atau buruh bekerja. Lamanya waktu proses mediasi yang berkepanjangan karena banyak pihak yang ingin ikut campur dalam mediasi.

Kata kunci: Aliran IRC, Efisiensi Proses IRC, Penyelesaian Penyelesaian Sengketa

INTRODUCTION

The Industrial Relations Disputes Settlement (IRC) replaces the Central Labor Dispute Settlement Committee (P4P) and the Regional Dispute Settlement Committee (P4D) established under Law no. 22 Year 1957. P4P consists of tripartite, such as employers, workers, and government.

IRC in the judicial structure in Indonesia is directly under the Supreme Court, and its operations are placed to the local District Court. IRC as the answer to the problem The role of government in P4P or P4D in government in the past is considered not entrepreneurs are neutral, tend to favor workers as part of populist political strategy. Instead, the workers judged the government more favorable to the employers. At that time, the P4P decision was not final, there was still room for the parties to file an appeal to the State Administrative Court so as to extend the settlement procedure. The process of settling labor disputes at that time also took a long time, and even with almost no certainty of time to seize enormous energy and cost for both parties. IRC takes time to get a final decision, including 2 times IRC trial delays and cassation process in MA, no later than 143 workdays or more than 3 months. The time required is shorter to 129 days if no delay is required at the IRC level. The number of working days is much shorter and

more definite than previous P4P and P4D processes. Outside of the normal IRC court process, there are also quick checks.

In the work agreement agreed terms of work to meet their interests in order to establish a harmonious relationship between employers and workers. There are still many disputes between workers and employers due to differences of opinion, interests, rights disputes and others. The government is in charge of establishing and fostering a harmonious relationship between employers and workers that will promote the achievement of the efficiency and survival of the company and at the same time to fulfill the welfare of the company's workers according to the development and progress of the company.

In an effort to prevent the emergence of industrial relations disputes the role of Labor Laws in the field of manpower is very important to create peace of work for workers and calm business for employers so that progress can be achieved and the welfare of workers and their families can be guaranteed.

The final outcome of any kind of employment disputes or IR is Termination of Employment. Article 3 Paragraph (1) of the Law-IRC mandates that industrial relations disputes shall be strived to be resolved, especially through bipartite negotiations by

deliberations to reach consensus. In the event that bipartite negotiations fail, either party or both parties shall record their dispute to the responsible agency in the field of local manpower by enclosing the minutes of bipartite negotiations. The Employment Service will direct alternatives to an out-of-court settlement, whether through mediation, arbitration or conciliation depending on the type of dispute. If the completion of the IRC outside this court does not produce results then the settlement will be forwarded to the Industrial Relations Court and so on until the Supreme Court appeal.

Based on the description and condition of IRC above the author tries to formulate some problems faced by workers and employers with the enactment of Law No.2 of 2004 as follows:

- a. How does the process flow outside the IRC based on Law No. 2 of 2004, can be one of the alternative settlements of termination disputes ?,
- b. How does the process flow within the IRC based on Law No. 2 of 2004, can be one of the alternative settlements for termination disputes ?,

- c. What is the IRC cost aspect based on Law No. 2 of 2004 in resolving the termination disputes?

Problems of employee performance that occur at PT. Metro Taruna is decreasing or there is no significant increase. The performance or the absence of a significant increase can be seen from table 1 for the past five years. The measurement results can be seen below:

CONCEPT OF INDUSTRIAL RELATION DISPUTES

Completion of the IRC outside the Court.

- 1) Bipartite negotiations

Article 3 Paragraph (1) of the UU-IRC states that industrial relations disputes shall be strived to be settled firstly through bipartite negotiations by deliberations for consensus. Bipartite negotiations are negotiations between workers or Labor Union with Entrepreneurs to resolve IR disputes. Article 3 paragraph (2), the settlement of disputes through bipartite shall be settled no later than 30 working days from the date of commencement of negotiations and Article 3 paragraph (3) if the 30 (thirty) day period has not reached agreement then bipartite negotiations shall be considered failed.

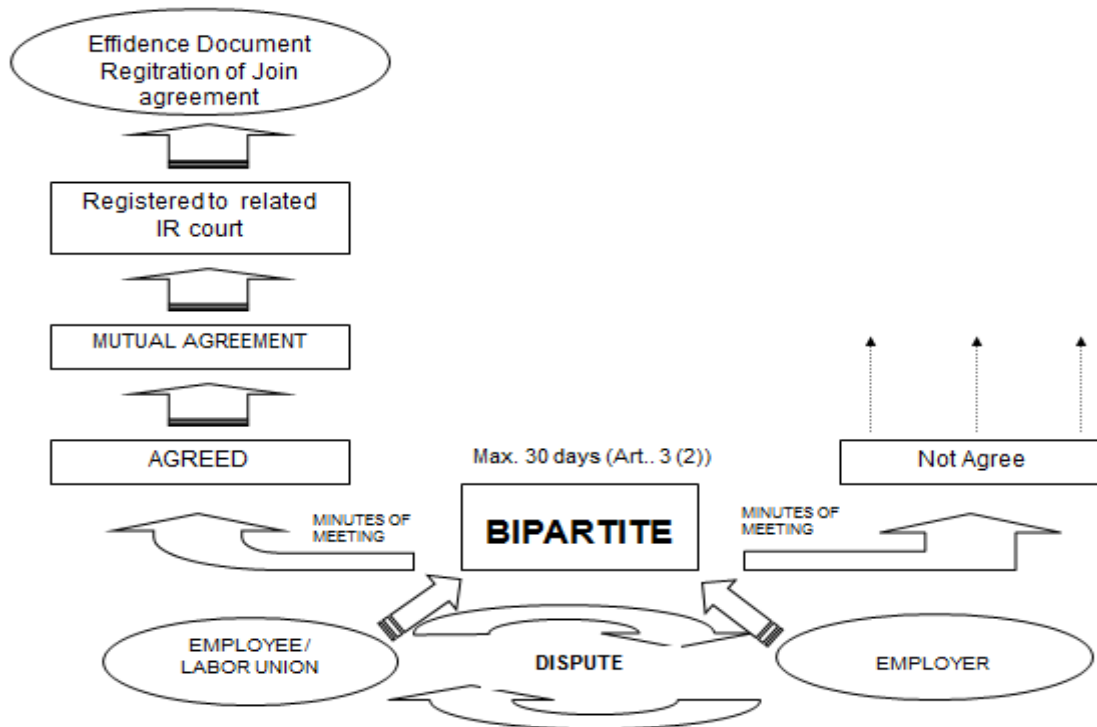


Figure 2.1. IRC Completion Through Bipartite

2) Industrial Relations Mediation

Article 8 of the LAW Of-IRC, the settlement through mediation shall be conducted by a mediator located at each office of the agency responsible for the manpower affairs in the region. Mediation is the settlement of disputes of rights, interests, layoffs, among employee/Labors within a company through deliberations mediated by a neutral mediator.

Article 10, LAW Of-IRC, Prior to submission to the IRC, the parties who can not resolve the dispute through conciliation or arbitration shall first be settled through

mediation, conducted by a mediator located at the office of the district / Municipal Manpower office. Article 15 LAW Of IRC, the Mediator shall carry out its duties within 30 days of receiving the delegation. Article 10 of LAW Of-IRC, no later than 7 (seven) working days, the mediator shall immediately hold a mediation session.

Article 13 paragraph (1) of the LAW Of-IRC, in the event of IRC agreement being reached through mediation, a MUTUAL AGREEMENT shall be signed by both parties and witnessed by the mediator to be subsequently registered to the IRC in the

jurisdiction of the parties and granted an inseparable proof of registration certificate from the MUTUAL AGREEMENT. If no agreement is reached, the mediator shall issue written advice within no later than 10 (ten)

working days from the first session of mediation. Article 14 paragraph (1), LAW OF-IRC, in the event that written advice is not approved by the parties, it may proceed to the local IRC by filing a lawsuit.

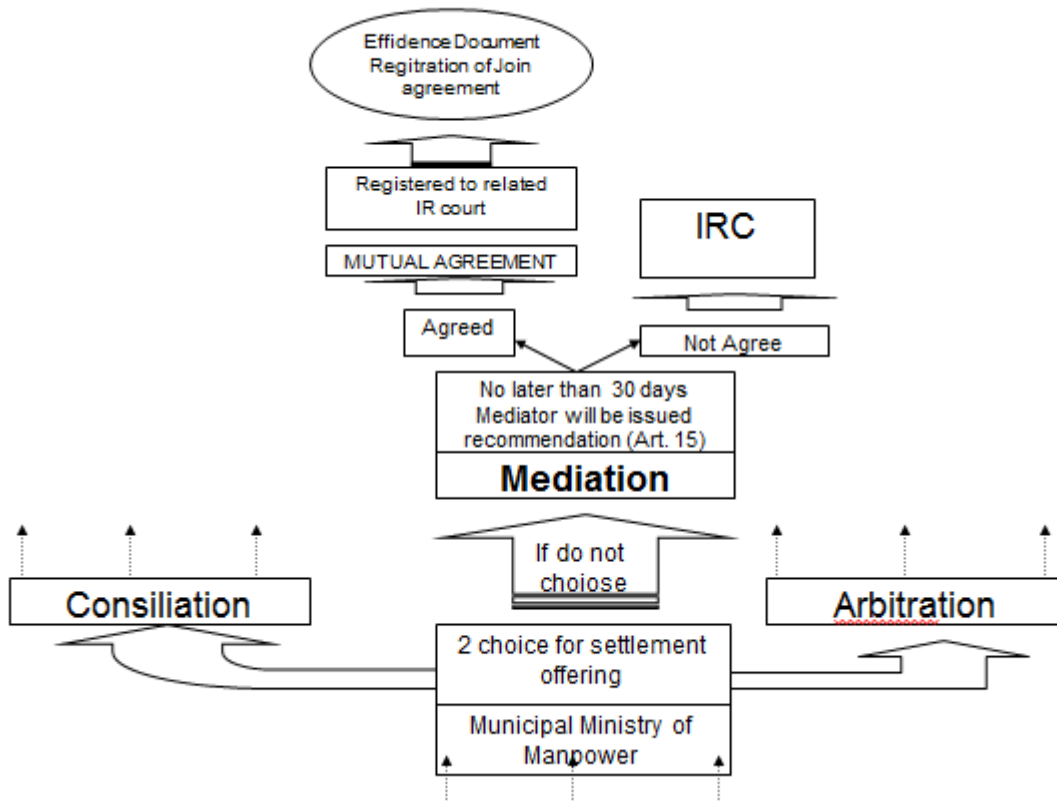


Figure 2.2. IRC Completion Through Mediation

Settlement Process Through IR Court

The IRC is the General Civil Procedure Code, unless specifically regulated in law. Decisions in the IRC concerning rights disputes

and dismissal disputes do not allow for appeals to the high court, but can be immediately appealed. Whereas concerning the decision of interest dispute and dispute among SP / SB in one company is the first and final level decision

which can not be requested by appeal to the Supreme Court.

The IRC lawsuit is submitted to an HI court whose jurisdiction covers the place of the worker accompanied by a treatise of settlement through mediation or conciliation. If a lawsuit has been examined and perceived to be inadequate, the judge may request the complainant to refine the lawsuit and may request assistance from the replacement clerk to help refine the lawsuit.

The panel of judges shall give a decision not later than 50 (fifty) working days from the first session, and the decision on disputes may be filed by appeal, not later than 14 (fourteen) working days since the court read the court session. Submission of cassation is done through the Sub-Registry of the local IRC who then submits the case file to the chairman of the Supreme Court.

The completion of a cassation to the Supreme Court, conducted by the Cassation Judge, consisting of a Supreme Court judge and 2 two ad-hoc judges who examined and adjudged with the determination of the Chairman of the Supreme Court. The Cassation in the IRC shall be completed not later than 30 (thirty) working days from the date the appeal is received. In case the decision of cassation

still can not satisfy one of the parties, then the party who feels aggrieved may file an extraordinary remedy namely Review (PK) (H.P. Panggabean, 2007,43).

The implementation of IRC is felt to be burdensome to entrepreneurs who actually run a pure business, although the entrepreneur may assign Human Resources Officer or legal department to represent his company in court by incidental authority with permission of the Chief Judge. From the business side is really a burden to be thought of by entrepreneurs. While for the workers, even though they are represented by unions sometimes become bad fruit, because union administrators sometimes can still be influenced by employers to regulate court decisions besides that workers also still have to pay lawyers from the union. As strong as any worker will not be able to compensate for the ability of the entrepreneur. This means that the certainty of guaranteeing the legal balance between employers and workers still needs to prove long term in line with the implementation in HI courts, the guarantee of the legal balance between workers and new entrepreneurs occurs when relatively the parties have been able to feel the benefits.

Article 55 of the LAW OF-IRC in the case of mediation or conciliation does not reach an agreement, either party may file a lawsuit to an

HI court which is a special court within the general court. Article 57, LAW OF-IRC, the procedural law applicable in the IRC shall be the Law of Public Administration, unless specifically regulated in law. Decisions in the IRC concerning rights disputes and dismissal disputes do not allow for appeals to the high court, but can be immediately appealed. Article 82, LAW OF-IRC, IRC's complaint shall be submitted to an HI court in a PN whose jurisdiction covers the place where the worker / laborer works. Article 83 paragraph (1), the filing of a lawsuit must be accompanied by a treatise of settlement through mediation or conciliation. Paragraph (2), If a complaint has been examined and perceived to be inadequate, the judge may request the plaintiff to refine the claim and may request assistance from the substitute clerk to assist in refining the lawsuit. (H.P. Panggabean: 2007,40).

Article 89, LAW OF-IRC, the process of proceeding in IRC can be done by ordinary process and quick process (article 98), based on the reasons of the interested petition, it is concluded that there is an urgent interest to be able to do the quick process. Within 7 (seven) working days after receipt of the application, the PN Chairman issues a quick or common process determination. After the determination,

the chairman of the PN within 7 (seven) working days determines the judges, place and time of the trial without going through the inspection procedure. The parties are given 14 (fourteen) working days to submit their respective answers and verification. Whereas in the ordinary process, Article 89 paragraph (1), within no later than 7 (seven) working days after the appointment of the panel of judges, the Chief Judge conducts the first hearing. Article 93 Paragraph (1), in the event that either party or parties can not attend the hearing for no reasonable reason, the Chief Judge shall determine the date of the next hearing.

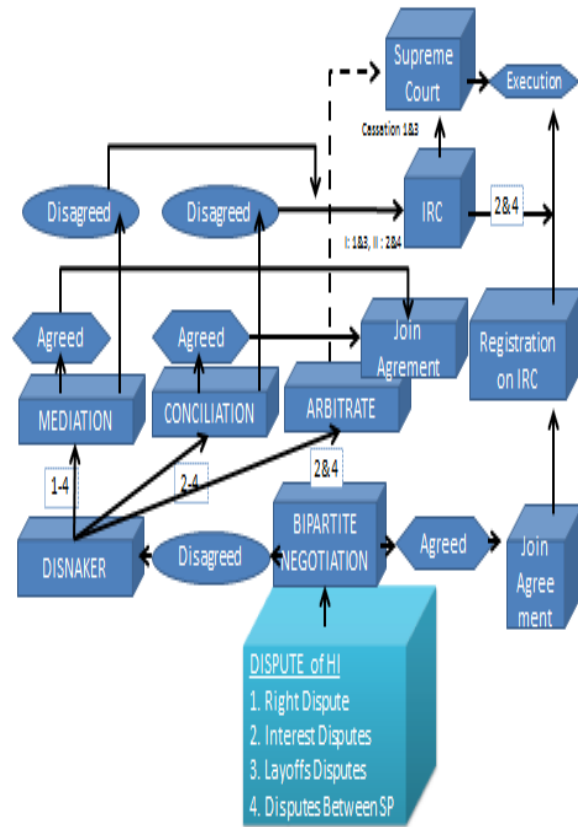
Article 93 Paragraph (3), the postponement of the trial due to the absence of either party or parties shall be granted a maximum of 2 (two) delays.

Article 103, LAW OF-IRC, the Panel of Judges shall render IRC's decision within no later than 50 (fifty) working days from the first session, and Article 106, decisions on disputes over rights and disputes dismissal have a permanent legal force if not filed a request for a cassation MA, within no later than 14 (fourteen) working days after being read out by the panel of judges. Article 111, the submission of a cassation by either party or parties shall be

made through the Sub-Registrar of the local IRC who then presents the case file to the chairman of the Supreme Court.

In Law No. 2 of 2004, there are several types of disputes: rights disputes, interest disputes, dismissal disputes and disputes between unions within a company. Each dispute has its own way of dispute. The dispute of rights is a dispute arising from the negligence or non-compliance of one or the parties in the implementation of the normative provisions set forth in the laws and regulations, or employment agreements, Company Regulations (PP), the Agreement Working together (PKB); interest disputes are disputes in the absence of conformity of opinion concerning the making and or alteration of terms of employment stipulated in the employment agreement or the PP or CLA; Disputes for dismissal are disputes concerning dismissal committed by either party, whether or not entity is legal entity, private property or private partnership, state-owned or social enterprise (H.P. Panggabean: 2007, 43). Preparation of a non-court IRC Settlement is conducted through bipartite, mediation, conciliation and arbitration. While the IRC completion process through the court starts from the filing of the lawsuit, the examination of the

minutes, the judge's decision, the legal effort and the execution of the decision as shown in the figure below



Lawyers at the Industrial Relations Court on checks with regular events and quick event checks. In civil procedure law if the case is examined through regular events then the phases include: 1). Lawsuit. 2). Answered defendant. 3). Reply (plaintiff's response to the defendant's answer). 4). Duplicate (response of the defendant to the plaintiff's reply). 5). Proof (letters and witnesses). 6). Conclusion of the parties; and 7). Judge's verdict.

RESEARCH METHODOLOGY

This research is a qualitative research, using conceptual approach and policy study. The nature of the research is descriptive analytical because of this research is expected to obtain a comprehensive and systematic picture of the settlement of industrial relations disputes in general and settlement of disputes termination of employment in particular based on Law no. 4 of 2004 on Industrial Relations Disputes Settlement and related labor legislation and general civil law.

This research uses qualitative approach, while the method used is descriptive and explanative method. Research can also be done through a policy study (policy research) using a policy evaluation approach. This research is a qualitative research, that is research with characteristic use natural setting, is descriptive, emphasize on process, by using inductive approach, and give attention to meaning. In order to support the use of qualitative methods, the researcher also uses qualitative evaluation methods (quality content analysis), an approach to empirical text evaluation and methodologically controlled within the context of its

communication, followed by a step-by-step evaluation, without hasty entry qualification. Emphasis is placed on the implementation of public policies, activities and changes that occur with other phenomenon. Descriptive research aims to describe systematically, factually and accurately about the facts and properties of a particular population or object.

Qualitative research is oriented towards exploration activities, disclosure, and inductive logic. Therefore, theoretical and scientific study is needed through comprehensive literature study. The qualitative research data is initially typical of presenting detailed descriptions of how, processes, and impacts are observed. Implementation of the policy studied in general is the result of policies ranging from the process of policy formulation at the highest regulator level to executive policy products, ranging from top management to implementation in the company.

Data collection methods used in this study in accordance with the type and source of data used. Sources of data which is then called this research material obtained through literature research to be inventoried and analyzed. While

field research in writing this thesis is not done if there is only as a complement only. Policy materials or laws obtained through library research include the following materials: Primary legal materials in the form of statutory regulations, copies of court decisions, obtained through print and electronic media. Secondary law materials are in the form of scientific works and research results such as journals in the field of labor and civil law. Tertiary legal material in the form of dictionaries, articles and news sources related to the notions, terms related to employment and the law. The necessary legal materials, inventoried and then separated in accordance with the legal material relating to the subject matter or the contents of the writing are then identified for use as an analysis material.

In qualitative research, validity and reliability testing used triangulation testing. In testing the validity of the data the researchers used the technique of triangulation, the technique of examining the validity of data that utilize something else (Lexy J. Moloung: 2004,280). Beyond the data for the purposes of sifting or as a comparison against that data. The most widely used technique is checking through other sources. Triangulation techniques conducted through interviews, direct observation and indirect observation. In this

indirect observation it is intended in the form of observation of some of the behaviors and events that link between them. Data collection techniques used will complement in obtaining primary and secondary data, while observation and interview are used to capture primary data related to the IRC settlement law policy, to collect secondary data can be lifted through various documentation about implementation perspective and policy result.

According to Nasution in (Lincoln and Guba: 1985) qualitative research is called scientific if the requirements of credibility, transferability, dependability and confirmability are fulfilled. In qualitative research there is no other choice than to make human beings as the main research instrument. Data analysis is the process of arranging the sequence of data, organizing it into a pattern, grouping and a basic description. Data analysis method used in this writing is a qualitative analysis, namely the material of primary law policy and secondary legal policy materials obtained systematically arranged, so as to obtain a comprehensive picture and classified qualitatively by blindly certain categories in accordance with issues related to Disputes termination of employment in accordance with LAW OF-IRC. The data collected by

researchers using qualitative approach, then in the data processing and analyzing the researcher using qualitative approach with juridical analysis model. Qualitative analysis is a method that uses and produces descriptive analytical data that is what is expressed in written or oral information and also the real behavior that is studied and studied as something intact. Analysis of data collected together with the data collection process is presented in the form of: Presentation of data is information arranged that allows the conclusion. Creation and presentation of data is not a separate part of the analysis, but part of the analysis. At this stage the researcher presents the text in the form of narrative text. Conclusions are part of an activity of a complete configuration. The meanings emerging from the data must be verified, their compatibility being the validation.

RESULTS AND DISCUSSION

Analysis of the IRC Process Flow outside the Court

A senior journalist named Robert address at Villa Pamulang Mas Pamulang Ciputat Tangerang is an employee of PT. Media address at n the roads on Jalan Cempaka Selatan. On

December 1, 2006, 51 other employees were transferred to Ambon for having committed systematic and unlawful rebellion. The company decided to dismiss Robert from the company as of December 9, 2006.

Based on observations, documents and interviews obtained a description of the scheme of completion of the IRC outside the court as shown in the diagram below

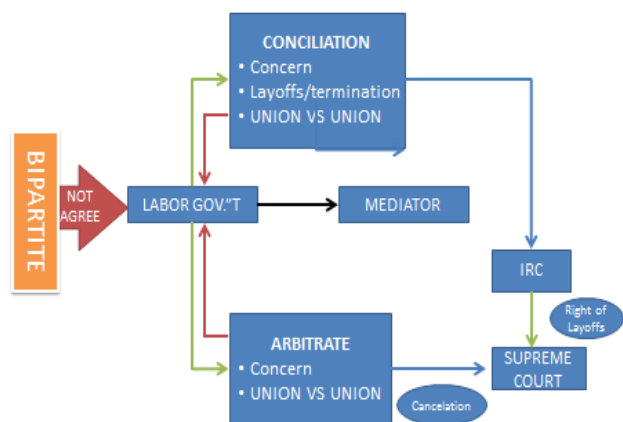


Figure 4.1. IRC Process Outside Court

1) Bipartite Bargaining Analysis

On December 8, 2006 the company was represented by several corporate leaders with Robert and several journalists conducting bipartite negotiations. The effort to settle the dispute did not produce results so the result of the meeting decided

that Robert was terminated from the company as of December 9, 2006. Due to bipartite negotiation efforts to resolve the termination disputes, there was no settlement so the company listed these disputes in the IRC with the subject of the layoffs.

According to the authors of bipartite negotiations is a series of laid-off settlement processes, when the filing of a lawsuit is not preceded by bipartite negotiations, the Judge will return the claim. In filing the above lawsuit The PT. Media has attached the minutes of bipartite negotiations and the lawsuit has been declared eligible.

2) Mediation Analysis at Office of Manpower of DKI Jakarta Province.

Based on letter of application for recording of dispute IRC from PT. Media by letter No.049 / SDMU / XII / 06, on 12 December 2006 and delegation of handling of IRC case from Labor of District Office of DKI Jakarta Province to IR Mediator by letter no. 3888 / HKK-PHK / XII / 2006 concerning the principal case of the IRC Registration Application. Furthermore, the IR Mediator provides opinions and considerations in the IRC resolution effort and recommends the

following: (1). In order for the entrepreneur PT MEDIA to reemploy the worker Robert in the original position in the Province of DKI Jakarta. (2). In order for the worker Mr. Robert reports to entrepreneurs to get ready to work again as soon as possible. (3). In order for both parties to give written reply to the Recommendation above at the latest within 10 (ten) working days after receiving the letter of this Recommendation, with the following notes: (a). if the parties accept this Recommendation, then the Mediator of Industrial Relations shall assist in the conclusion of the Joint Agreement and shall be registered with the Industrial Relations Court at the Central Jakarta District Court; (b). if either party or parties reject the Recommendation, the parties or any party may advise to the Industrial Relations Court at the Central Jakarta District Court with a copy to the Mediation of Industrial Relations. At the suggestion given by the Mediation Judge, the plaintiff has rejected the written advice of the HI Mediator as evidenced in the letter of the Plaintiff. 02 / Tim Lit-As / III / 2007 dated March 16, 2007 to the Head of Dept. of Manpower and Transmigration of DKI Jakarta Province, Responding to the suggestion and therefore the Plaintiff shall be entitled to submit dispute settlement to IRC at Central Jakarta District Court by enclosing the

recommendation no. 059 / ANJ / D / III / 2007, dated 7 March 2007 and give 10 (ten) days to both parties to provide answers. The mediation process at the Office of Manpower Office of DKI Jakarta Province can be seen in the scheme below

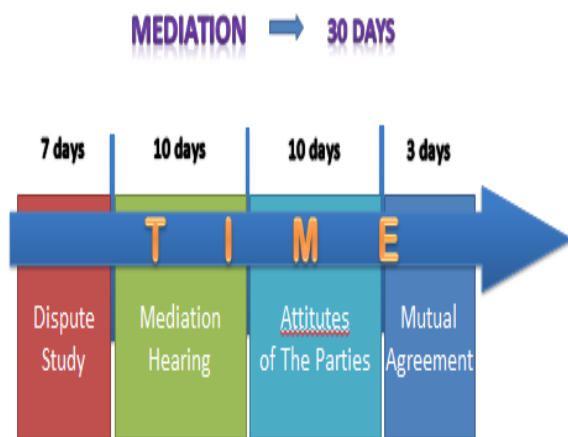


Figure 4.2. Mediation Time Scheme

According to the authors, there is no win or lose term in the recommendation of the Mediation Judge, the suggestion is a consideration or opinion made by the Mediation Judge in handling the IRC case, if the negotiations reach an agreement then the mediating Judge will make a peace deed (Agreement) can reach an agreement then the settlement of layoffs will be delegated to the IRC located in the court where the lawsuit filed. The advice of the Mediator has been rejected by the legal counsel of PT. Media and

continue the settlement of dispute through IR courts at the Central Jakarta District Court.

Analysis of the IRC Process Flow in the Court

Based on observations, DKI Jakarta that the IRC process in the Court can be described in the scheme below

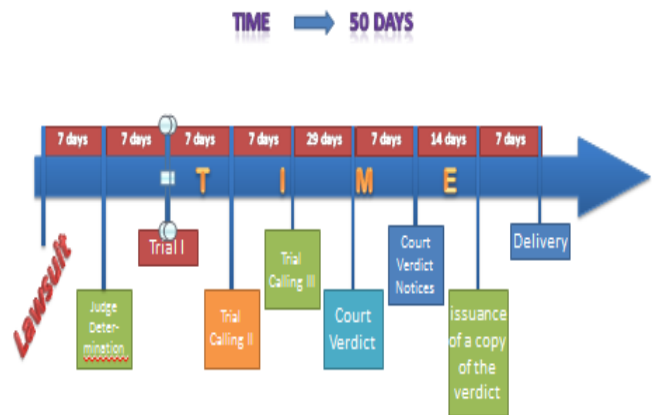


Figure 4.3. IRC Process Scheme

1) Analysis of Plaintiff's Claim Letter

The industrial relations dispute lawsuit filed has been filed by PT. Media represented by Ir. Pratomo in his position as Director through his attorney Arie Lukman, SH.M.Kn. and Deny G.Wijaya, SH. the Advocat offices at the Office of the Sunardi Richard Allied Law Office addressed the IRC courts to the District Court on May 23, 2007 to the Central

Jakarta District Court with the lawsuit number 158 / IRC.G / 2007 / PN.JKT.PST, whose jurisdiction covers the place of workers / laborers work (LAW OF-IRC Article 81). Lawsuit by workers / laborers on termination of employment as stipulated in article 159 and article 171 of Law no. 13 year 2003, may be filed within a period of 1 (one) year from the date of receipt or notification of the decision of the employer. The filing of the lawsuit by the Entrepreneur has been enclosed with a mediation settlement treaty, then the IRC Judge is required to accept the lawsuit against the Plaintiff (LAW OF-IRC Article 83).

The contents of the lawsuit filed by PT.Media has met the requirements of the lawsuit in general which contains:

The identity of the litigant parties namely name, age, occupation and address. Accompanied by concrete proofs of a legal relationship which is the basis for the filing of a lawsuit (sit case / posita); such as the object of laid-off case, legal fact, qualification of defendant's acts and description of plaintiff's loss. Written demands or petitum is what is required by the plaintiff or is expected to be decided by a judge. Subsequently the Letter of the

lawsuit was submitted by the plaintiff's legal counsel to the IRC at the District Court whose jurisdiction covers the workplace (RBG HIR Article 174).

Thus according to the authors that the lawsuit has fulfilled the procedure of the lawsuit and the requirements of the lawsuit as determined by the HIR and RBg and Article 83 paragraph (2) LAW OF-IRC which obliges the judge to examine the contents of the lawsuit from the material requirement that is the content or systematics of the lawsuit and the formal or procedural requirements pursued. So the IRC's Office of the Central Jakarta District Court accepted and registered the lawsuit of PT. The media may then proceed to examine cases and adjudicate cases of termination of employment in accordance with the contents of the lawsuit.

2) Analysis of Defendant's Letter of Answer

In response, the Defendant refused, denied, denied all of the Plaintiff's arguments in the a quo petition, except for what the Defendant had clearly recognized.

- a) Premature Lawsuit, According to Defendant the issue of mutation is a dispute that should be resolved first

before the dismissal disputes; whereas in the a quo posita with subtitles the Plaintiff shall have the right to mutate the defendant and the subcontinent of the Defendant's anarchist action in the absence of mutation, principally arguing the dismissal dispute is a mutation problem; and that pursuant to Article 1 number (2) of Law no. 2 of 2004 on IRC, that the issue of mutation is the territory of the Rights Constitution; Therefore, it is very clear that the lawsuit is premature considering the mutation problem has not been resolved first so it is too early for the Plaintiff to file a laid-off lawsuit.

- b) Lost And Unclear Lawsuits (obscLaw ofr libel), Whereas the reasons and the legal basis for the decision of the layoffs are based on the Civil Code 1603 has been revoked based on Law No. 12 of 1964, and that Law no. 12 of 1964 on layoffs in private companies has been revoked by Article 125 of Law No.2 of 2004; hence the a quo law is vague and unclear; and that the a

quo clause is 21 points IV The claimant shall base on the basic and basic reasons of the layoffs on the number 4 SE Minister of Manpower which is not a type and hierarchy of legislation, pursuant to Law no. 10 of 2004 on the Establishment of Regulation of the SE Law is not legally binding and can not be used as an excuse to lay off because it is contradictory to Law no. 13 of 2003 on Manpower, so it must be disregarded (lex superior derogate legi inferiori). According to the author's analysis, the Defendant proposed two things in his exception, namely the premature lawsuit and the blurred lawsuit in the hope of bringing the Panel of Judges to the definition of the IRC dispute in general, there are 4 kinds of disputes, namely rights disputes, interest disputes, dismissal disputes and disputes between SPs. Whereas the lawsuit filed by the Plaintiff is expressly stipulated as a laid-off lawsuit. Since the exception filed by the Defendant concerning the mutation

has entered the main part of the case and regarding the blurring of the lawsuit due to the improper legal basis, the plaintiff has been able to submit the facts then the Panel of Judges rejected the defendant's exception. The Defendant argues that the dispute is a matter of rights, not a dismissal dispute, but the Plaintiff's claim has stated explicitly the content of the termination of the employment suit. The issue would be different if the lawsuit was filed by the worker with the content of the rights dispute.

3) Plaintiff's Duplicate Analysis

Based on the Defendant's reply that contains matters that are detrimental to the Plaintiff, the Plaintiff shall subsequently file a counter-claim against the Defendant of Reconstruction so that for that purpose, the Plaintiff shall remain in the arguments of the above suit. Things that have been revealed in the Conference is something that is not separated in reconstruction.

The author is of the opinion that Duplik in the IRC is not commonly used because the timing of the settlement is very limited,

but in the past the Plaintiff has filed a Reconciliation Law against the Defendant of Reconstruction in the form of an affirmation of the previously proposed lawsuit which is an inseparable part. In fact, at the time of the filing of this lawsuit, the Plaintiff of the Reconstruction may have filed another lawsuit in the form of non material compensation but the Plaintiff does not take advantage of the legal opportunity only to strengthen the original lawsuit.

4) Reply Analysis of the Defendant

Defendant The reconstruction in his reply filed an excuse based on Jakarta Labour District Recommendation Letter no. 059 / ANJ / D / III / 2007 dated March 7, 2007 and the arguments outlined above the Plaintiffs of Reconstruction request to the panel of judges in their decision.

With respect to the lawsuit, the Panel of Judges, considering the principal issue: granted part of it and rejected a portion of the Lawsuit. While in the lawsuit rekompensi refused the lawsuit rekompensi to reinstate the defendant. According to the author's analysis, the mutation submitted by the Plaintiff is the absolute right of the Plaintiff as set forth in the work agreement

between the Plaintiff and the defendant there is no regulation in the company regulation stating the specific rules concerning union officials can not be transferred, while the reason of the defendant who is the secretary of the union so that it can not be mutated has no foundation of any work agreement so that the judges consider to reject the lawsuit of reconstruction.

The Panel of Judges is of the opinion that the labor agreement has a stronger legal force than the law, when the employment agreement does not regulate the mutation of trade union officials, the panel of judges holds to the existing employment agreement. The issue would be different if the provisions concerning the prohibition of mutation to trade union officials were incorporated into company regulations or collective labor agreements, the judge based his decision on company rules or collective agreements.

5) Analysis of Evidence

In the proceedings the Plaintiff submits a number of written proofs in the form of copies of employment contract documents, letters, pamphlets,

photographs and some Media employee statements which have given stamp duty and leges to corroborate the lawsuit or support the lawsuit and upon examination by the original are eligible. However, the Plaintiff did not file any witnesses in the hearing because the written proof has been sufficiently satisfied and has fulfilled the requirements.

In the verification the Defendant has filed both written evidence and witnesses to support his arguments and weaken the plaintiff's claim in the hearing and after being examined by the Panel of Judges, is valid and fulfill the legal requirements materially so that it can be accepted as evidence of the defendant in the hearing.

In the opinion of the author at the hearing of the submission of evidence and witnesses The Plaintiff has submitted written evidence in accordance with the facts but did not file a witness, it may be possible in the hearing because the plaintiff of the written verification opinion is sufficient. Whereas the Defendant confidently can present evidence and witness in the hope of influencing the Panel

of Judges' consideration in deciding the case and obtaining sympathy from the IRC observers.

6) Conclusion Analysis

On August 16, 2007, the parties have submitted their respective conclusions. In conclusion, the parties summarize the whole trial process from beginning to end by emphasizing the arguments that reinforce his opinion and put forward the arguments that can weaken his opponent.

Thus the authors argue that the parties have used the opportunity given in the session for the submission of conclusions during the trial lasted from beginning to end. In civil cases, conclusions made by the parties are only used as consideration and strengthen the decision to be taken. In the event that neither party nor one of the parties concludes, the opportunity to influence the judge's ruling is based solely on the trial proceedings that have been previously undertaken.

7) Judgment Analysis of IRC Judges at Central Jakarta District Court.

The verdict of the Panel of Judges was read in the hearing on 30 August 2007 in a session open to the public, in the snippet of the verdict read out, among others, including the decision of the Panel of Judges

According to the author, the reading of a court decision preceded by the phrase: "FOR THE SAKE OF JUSTICE UNDER THE ONE ALMIGHTY GOD" is then concluded with the sentence "Thus decided in the consultative meeting of the Panel of Judges of the Industrial Relations Court at the Central Jakarta District Court on Wednesday August 29, 2007 by Heru Purnomo, SH, M. Hum, and so on. Having met the requirements of the verdict of the legitimate Judges, other requirements are also met is by the presence of a full panel of judges and attorneys of the parties, the Registrar or Substitute Registrar.

IRC efficiency analysis In Settlement Disputes Dispute.

Based on observations, documents and interviews with the Office of the Provincial Office of DKI Jakarta that an efficient IRC settlement can be achieved if the fulfillment is a quick, simple, cheap and fair settlement for the parties.

1) Analysis of Completion Time

The dismissal process starts from the Plaintiff's Claim Registration in the Registrar of the IRC at the Central Jakarta District Court on 24 May 2007 with the register number: 150 / PHl.G / 2007 / PN.JKT.PST. and the verdict was read by the Panel of Judges on August 30, 2007 from the grace period since the receipt of the lawsuit until the decision was read out for 70 working days, when this was compared to the standard time of completion of the IRC case 50 working days plus the trial delay 2 times 5 days work for the settlement of ordinary things then total time 60 days.

According to the authors, is the length of time required to settle the case in this lawsuit quickly enough even though there is an overtime of 10 working days. And when compared to the settlement of labor disputes under Law no. 22 of 1957, of the Labor Dispute Settlement Committee has been a very effective judicial reform. The time of completion of this trial will be even faster if at the beginning of the lawsuit filed fulfill the requirements for examination with quick events. In the process in

accordance with Law no. 22 of 1957, the time required to settle labor disputes takes a very long time and is almost uncertain.

2) Analysis of IRC Settlement Costs

The cost of the case at the IRC at the Central Jakarta District Court at an official court hearing is based on a written court ruling of IDR 400,000, - become the burden of the Plaintiff and Defendant divided equally and added penalties for severance pay and reward for the period of work covered by the Plaintiff after which no official fees are incurred. In addition, there are costs incurred by each party either the Plaintiff or the defendant to hire a legal counsel of not less than IDR. 100.000.000, - But these costs can actually be reduced much lower by both parties if they take advantage of legal counsel from Trade Unions or Employers' Association.

According to the author of the official case fees are not very expensive morning justice seekers, cost overpriced precisely because of the choice of each party to his legal counsel from lawyers who have profession and reputation. While the penalty of severance pay is already a matter that should be the burden of the employer

or the company whether through the IRC or not. Thus, in terms of the cost of settlement cases through IRC including efficient when compared with the results obtained on the application of Law No. 22 of 1957.

3) Simple Settlement Process Analysis

To find out the process of completion of the IRC, it is necessary to review the procedure of the IRC trial process in the Central Jakarta District Court: First Trial (Filing of Lawsuit), Second Trial (Response of Claim), Third Session (Replik), Fourth Session (Duplik), Fifth Session (Plaintiff's Proof) , Sixth Session (Verdict of Defendant), Seventh Session (Conclusion), 8th Session (Verdict). From each of the above stages the trial is given 7 days or a week and if there is a delay it is only given 2 delays during the trial. According to the authors, the durability of the trials is quite simple each stage is limited by time, when compared with the Settlement of P4P model of P4P funds is much simpler and more definite. A Justice Sense Analysis Obtained by the Parties.

The sense of justice can be seen only from one side only but must be felt by both parties, therefore the law is created. In the

case of the IRC the author sees the verdict read by the panel of judges

In the opinion of the author, the Panel of Judges has acted very carefully on the basis of the positions of the parties and the legal considerations that have the basis or the power of the decision. In the Constitution the Panel of Judges rejected the exception, in the principal of the case granting termination, but punishes the plaintiff to pay the compensation for severance pay and to pay the cost of the matter divided equally to the plaintiff and the defendant. According to the author there is no decision that can give satisfaction to all parties because the satisfaction is very relative. However, when a decision has been read out and either party or parties can not accept the decision it is still open to appeal within 14 working days after the verdict is read out.

According to the authors, the practice of civil procedure law of IRC in general has proven to be effective in terms of fast, simple, cheap and fair settlement. In relation to the effectiveness of legislation in the field of employment these three factors need to take a long time to prove it. However, in the Law-IRC also set the process of inspection with a quick time

as can be seen in the scheme below. At least the IRC Law has demonstrated its ability to complete the IRC process within 6 weeks or 42 days as shown in Figure 4.4

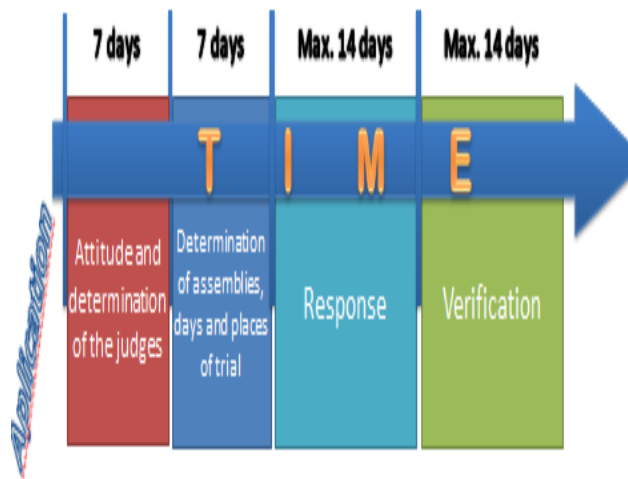


Figure 4.4. Rapid Evaluation

Thus the settlement of industrial relations disputes becomes better and more effective than the previous product of labor dispute settlement law.

CONCLUSION

Process Flow Beyond IRC On Settlement Dispute Resolution

The process of settlement of the layoffs begins when there is a violation of the employment agreement or violation of the terms used as a common reference by workers

and employers resulting in a layoff. Decisions on layoffs made by employers must be preceded by bipartite negotiations. If in bipartite negotiations that lasted 30 days at the most, an agreement is reached then a Joint Agreement (MUTUAL AGREEMENT) to be reported to the IRC to be binding on the parties, but if no agreement is reached one of the parties may register a dismissal dispute to the IRC Office located at the Office of Power Local Work and Transmigration.

Within 30 days the Office of Manpower and Transmigration through the mediator of the IRC is seeking a settlement. If an agreement is reached, a MUTUAL AGREEMENT may be submitted to the IRC to obtain a binding legal force for the parties, but if no agreement is reached the IRC mediator will make a letter of recommendation to be replied within 10 (ten) days. If there is no answer then it is considered not reached agreement. One of the parties who disagreed subsequently registered a lawsuit to the IRC at the local PN through the local PN Registry Office.

Process Flow Inside IRC On Settlement Dispute

Within 7 days from the date of the decision of the Panel of Judges, the Chief Judge must

have started the first hearing, at the first hearing the judge seeks to reconcile if not willing to proceed with the reading of the lawsuit. The second hearing heard the answer from the Defendant which could be an exception and a reconnaissance lawsuit. The third trial heard replication with the intention to answer the Defendant's reply as well as to file a claim of reconciliation read by the Plaintiff. In the fourth trial, a duplicate of the Defendant / plaintiff for reconstruction with the purpose of answering the plaintiff's reply and reinforcing the defendant's answer. In the fifth trial is the Proof by the Plaintiff in the form of submission of written evidence and witnesses in order to strengthen the lawsuit and weaken the response of the defendant or the lawsuit of reconstruction.

The sixth session was read by the Defendant to prove the objection to weaken the plaintiff's claim and to confirm the response of the defendant or the lawsuit of reconvention. The seventh session reads the conclusions of each side to summarize the entire trial process that has been passed. The eighth hearing of the decision by the Panel of Judges.

The bipartite negotiation process lasts 30 days plus a 30 day HI mediation and 50-day IRC trial, if one of the parties does not accept the decision of the IRC judge then proceeds

to PK to MA which will last for 30 days, so the whole trial takes about 140 days. In this thesis the authors limit the analysis on the trial IRC level in the PN course so that the process after being read out the judges decision in the IRC will not be discussed further. The process of settlement of disputes will be faster when using the process of completion with a quick examination in accordance with Law No. 2 of 2004.

Aspect Analysis of IRC Costs on Settlement of Dispute Resolution

The cost efficiency of the IRC in resolving the dismissal of disputes can be seen in terms of the timing of a quick settlement, the low cost of settlement, the simple and fair settlement process for the disputing parties is very effective. In the IRC process by which the authors of this analysis, it turns out that the time required for the entire settlement process prior to entering the settlement through the courts starting from bipartite negotiations, mediation by mediator judges and mediation by parties outside the IRC until the court verdict is read very prolonged time from the decision PHK by PT. Media dated December 9, 2006, until the reading of the verdict dated August 30, 2007 has taken 184 working days should ideally be 110 days.

The length of the time is due to a prolonged mediation process due to the many parties wishing to interfere in mediation. If the trial continues until the Supreme Court's ruling then the time required will increase by another 30 days even more. However, for the process at its own IRC the required time is only 60 working days or 10 days longer than the standard time stipulated by the Act and plus 30 days if the trial proceeds to PK in MA.

In relation to IRC cost aspects, these three factors have not been able to run well as expected and still require a long time of proof in line with improvements from supporting regulations such as Government Regulations, Ministerial Decrees and other implementing Regulations. In addition, learning and understanding of the contents of the IRC Law and the institutionalization of the organs associated with the IRC, such as the IRC Judge, Mediator, Conciliator, Arbitrator and lawyer.

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