

# Legal Force of Decision of Consumer Dispute Resolution Agency (BPSK) on Rejection of Life Insurance Claims

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## ABSTRACT

Claim rejection by life insurance companies is one form of consumer dispute that often occurs in the financial services sector. To ensure legal protection for consumers, the Consumer Dispute Resolution Agency (BPSK) is authorized to resolve disputes outside the court quickly, simply, and cheaply. This study aims to analyze the legal force of BPSK decisions on life insurance claim rejection disputes and the extent of their effectiveness in practice. The method used is a normative legal approach with an analysis of laws and regulations, BPSK decisions, and related court decisions. The results of the study indicate that BPSK decisions have final and binding legal force if no objections are filed with the court within the specified time period. However, the effectiveness of its implementation is often hampered by institutional weaknesses and overlapping authority with other financial services sector dispute resolution institutions.

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## 1. INTRODUCTION

The development of the financial services sector in Indonesia, especially the life insurance industry, has experienced significant growth in the last few decades. Life insurance functions as a financial protection instrument for the community, as well as being one of the pillars in national economic development. However, this growth is also accompanied by the emergence of various disputes between consumers and insurance companies, especially related to life insurance claim rejection which often causes losses for consumers (Nasution, 2001). Life insurance claim disputes have complex characteristics because they involve technical aspects of the policy, risks, and statutory provisions governing the contractual relationship between the insured and the insurance company (Law No. 40 of 2014 concerning Insurance). In dealing with these disputes, consumers often experience obstacles in accessing justice due to limited resources and imbalances in information.

To protect consumer rights, Law No. 8 of 1999 concerning Consumer Protection mandates the

establishment of a Consumer Dispute Resolution Agency (BPSK) as an alternative to resolving disputes outside the court that is fast, simple, and low cost. BPSK has the authority to issue final and binding decisions, unless an objection is filed with the court (Article 58 of the Consumer Protection Law).

However, in practice, the legal force of BPSK's decision on disputes over rejection of life insurance claims still faces various challenges. The occurrence of overlapping authority between BPSK and financial services sector dispute resolution institutions such as LAPS SJK under the Financial Services Authority (OJK), as well as objections submitted by insurance companies to BPSK decisions, are factors that influence the effectiveness of consumer protection (OJK Regulation No. 61/POJK.07/2020).

This situation raises fundamental questions about the extent to which legal force of BPSK decisions in resolving disputes over life insurance claim rejections and how to implement them in the context of existing regulations. Therefore, this study is important to analyze the legal position, authority, and executive power of BPSK decisions, as well as provide recommendations to improve legal protection for life insurance consumers in Indonesia.

The focus of this research involves aspects of insurance claims, consumer disputes, and their resolution as a central point in the context of legal protection. This study aims to provide further understanding regarding the problems of legal protection of life insurance consumers, by considering the implications of regulations and realities in the field. Thus, this research is directed to not only identify problems, but also provide constructive contributions in improving the consumer legal protection system in the life insurance sector based on Law No. 8 of 1999 concerning Consumer Protection Case Study of Case No. 023 / BPSK / IV / MDN.

#### 1. Consumer Protection in Indonesia

Consumer protection is an important part of realizing social and economic justice in society. Nasution (2001) stated that consumer protection is an effort to ensure legal certainty for consumers from detrimental business practices. In Indonesia, consumer protection regulations are comprehensively regulated through Law Number 8 of 1999 concerning Consumer Protection (UUPK), which among other things provides consumers with the right to receive compensation and fair treatment from business actors. UUPK also established the Consumer Dispute Resolution Agency (BPSK) as a forum for resolving disputes outside the courts that is fast, simple, and low cost. BPSK has the authority to adjudicate consumer disputes using arbitration, mediation, and conciliation mechanisms.

#### 2. Life Insurance and Claim Disputes

Life insurance is a financial services product that is specifically regulated in Law Number 40 of 2014 concerning Insurance. Life insurance aims to provide financial protection to the insured or heirs in the event of risks such as death or permanent disability. However, in practice, claim disputes often occur, especially when the insurance company refuses to pay the claim for certain reasons. This opens up space for legal debate between the obligations of the insurance company and the rights of consumers as the insured (Susanti Dewi, 2018).

#### 3. Position and Legal Power of BPSK Decisions

According to Article 58 of the UUPK, the BPSK decision is final and binding if no objection is filed to the District Court within 14 days since the decision was read. Thus, BPSK has a quasi-judicial role that is parallel to an arbitration decision (Ahmad Mulyana Lubis, 2012). However, in practice, many BPSK decisions are objected to or even ignored by business actors. This raises questions regarding the effectiveness and executorial power of BPSK decisions, especially in cases involving financial institutions such as life insurance (Soerjono Soekanto, 2008).

#### 4. Financial Services Sector Dispute Resolution Institution

In addition to BPSK, the government through the Financial Services Authority (OJK) has formed an Alternative Institution for the Resolution of Financial Services Sector Disputes (LAPS SJK), based on

OJK Regulation No. 61/POJK.07/2020. LAPS SJK functions to resolve disputes in the financial sector, including insurance, outside the courts. The overlapping authority between BPSK and LAPS SJK is an important issue in the context of resolving life insurance disputes. It is necessary to study how to synchronize and harmonize the laws between the two to ensure justice for consumers (Fitriana Ayu, 2021).

## 2. METHODS

Legal research is conducted to find solutions to legal issues arising from the topics discussed in this paper. The research method used is normative juridical. Normative juridical legal research, or library legal research, is conducted by analyzing literature or secondary data relevant to the research topic. (Mahmud, 2005) According to Soerjono Soekanto, Normative legal research consists of: legal principles; legal systematics; Research on the level of legal synchronization; on legal history; comparative law.

Of the five types of normative legal research, those that will be used in this research are research on legal principles and comparative legal research. (Sukanto, 2009) This type of research examines legal norms and principles regarding legal regulations regarding cohabitation as regulated in Legislation related to the settlement of consumer disputes and life insurance, such as Law No. 8 of 1999 concerning Consumer Protection and Law No. 40 of 2014 concerning Insurance; BPSK Decisions and court decisions relating to disputes over rejection of life insurance claims; Law Number 1 of 2023 concerning the Criminal Code.

## 3. RESULTS AND DISCUSSION

### A. Legal Position and Authority of BPSK in Life Insurance Disputes

The Consumer Dispute Resolution Agency (BPSK) was formed based on Law Number 8 of 1999 concerning Consumer Protection as an alternative institution for dispute resolution outside the courts. Article 52 of the Law states that BPSK is tasked with handling and deciding disputes between consumers and business actors through arbitration, mediation, or conciliation mechanisms. Although it is not explicitly stated that BPSK handles disputes in the financial services sector, including life insurance, several Supreme Court decisions recognize BPSK's authority to handle consumer dispute cases as long as they concern basic consumer rights. This is reinforced by Supreme Court Decision Number 1061 K/Pdt.Sus-BPSK/2017, which rejected the insurance business actor's objection to the BPSK decision because it was deemed to have violated the principle of consumer protection.

However, the emergence of Financial Services Authority Regulation (POJK) No. 61/POJK.07/2020 regarding the Alternative Institution for the Resolution of Financial Services Sector Disputes (LAPS SJK) carries normative consequences. LAPS SJK is given sole authority to resolve disputes in the financial services sector. Thus, there is an overlapping authority between BPSK and LAPS SJK, especially in life insurance claim disputes. Based on the analysis conducted on Case Decision No.023/BPSK/IV/MDN, the existence of BPSK is less effective in realizing legal certainty for customers who are harmed, so that the decisions issued by the institution are only administrative in nature. This can lead to inappropriate budget allocation by the government.

However, in order to obtain legal protection with legal certainty, based on the Decision of Case No. 023/BPSK/IV/MDN dated May 30, 2023, an execution has been determined at the District Court by incurring expensive costs. After this stage, a new problem arose, namely that the objects to be confiscated were not stated in the BPSK Decision, this was because the business actors were not subject to the Decision. BPSK even issued a warning to pay (anmaaning) which was issued by the District Court.

The Decision of Case No.023/BPSK/IV/MDN shows that the existence of the Consumer Dispute Resolution Agency (BPSK) is less effective in providing legal certainty to customers who have been harmed. The decisions issued by BPSK are considered to be only administrative in nature, creating doubts regarding the implementation and sustainability of the decision. This situation can create legal

uncertainty that is detrimental to customers, and can potentially lead to inappropriate budget allocation by the government.

Although the Decision of Case No.023/BPSK/IV/MDN has determined the execution at the District Court to obtain more effective legal protection, the high cost of the process can be an obstacle for customers who want to continue legal efforts. Moreover, non-compliance of business actors with the BPSK Decision and the District Court's warning creates new obstacles to effective law enforcement.

In this context, theories related to the effectiveness of consumer dispute resolution, legal certainty, and compliance with dispute resolution institution decisions become relevant. The concept of legal certainty is an important foundation in the legal system that functions to provide guarantees for individual legal rights and obligations. However, business actors' non-compliance with BPSK decisions shows that the implementation of legal certainty is still a challenge.

Further exploration of theories related to the effectiveness of dispute resolution institutions, especially within the framework of consumer protection, is needed. A more in-depth study of the role of the Consumer Dispute Resolution Agency (BPSK) and its potential in providing effective legal certainty is needed. In this context, a comprehensive consideration is needed on how BPSK can be strengthened and optimized in providing legal protection that is in accordance with consumer needs. In addition, it is also necessary to consider the implementation strategy for improvement efforts to increase the effectiveness of BPSK, so that it can become a more efficient and responsive institution in handling consumer disputes.

The discussion on the high cost of execution can also be told through the lens of analyzing theories related to access to justice and the sustainability of the justice system. The ethical question of the availability of equal legal protection for all parties, regardless of economic level, also becomes the subject of debate in this context. In ethical considerations, it is necessary to ask whether a justice system that charges high execution costs can provide equal access to justice for all levels of society or makes it difficult for those who may have financial limitations.

## B. Legal Power of BPSK Decisions and Their Effectiveness in Insurance Disputes

BPSK's decision has final and binding legal force, as regulated in Article 58 paragraph (1) of the Consumer Protection Law, which states that the BPSK decision is final and binding if no objection is filed with the District Court within 14 days. This is in line with the principle of *res judicata*, namely that a decision that has permanent legal force cannot be challenged again. However, in practice, insurance companies often file objections to the District Court, so that the implementation of the BPSK decision is delayed or even cancelled. This poses a challenge to the effectiveness of the BPSK in providing substantive justice for consumers. Moreover, the BPSK decision does not have direct executorial power, because to be executed it must first be registered with the District Court.

In addition, there is a tendency for business actors to reject BPSK's jurisdiction in financial services disputes on the grounds that the dispute is **pure civil**, not consumer disputes. This argument is often used to divert the settlement forum to the LAPS SJK or the court, which requires more time and costs, harming the consumer's bargaining position.

## C. Consumer Protection and the Direction of Legal Reform

In the context of consumer protection, it is important to position BPSK as part of the system.access to justice (access to justice). Therefore, the state should strengthen the existence of BPSK by providing clarity of jurisdiction, definite execution procedures, and a coordination mechanism that is synchronized with OJK and LAPS SJK. Legal reform is needed to avoid dualism of dispute resolution forums, which causes legal uncertainty for consumers. Secondary legislation such as government regulations or revisions to the UUPK can provide limitations and clarity regarding the types of disputes that are within the competence of BPSK, including in life insurance cases.

#### D. Legal Force of BPSK Decisions

Normatively, the BPSK decision has final and binding legal force, as regulated in Article 58 of Law Number 8 of 1999 concerning Consumer Protection. If no objection is filed to the court within 14 days, then the decision is permanent and can be enforced. However, research findings show that this legal force is often not implemented effectively in cases of life insurance claim rejection. Many insurance companies refuse to enforce BPSK decisions, and choose to file objections to the court, even when the contents of the decision are in line with the principles of consumer justice.

Through a study of several cases of BPSK decisions and legal documents, it was found that insurance companies often reject claims for reasons such as:

- a. Failure to comply with the provisions of the policy
- b. The policyholder is deemed to have provided incorrect information when registering.
- c. There is a waiting period or policy exceptions.

However, BPSK in several of its decisions stated that these reasons were not valid. can be used as a basis for arbitrarily rejecting claims, especially if it is not conveyed transparently when consumers purchase insurance products. The implementation of BPSK decisions does not have direct execution power as court decisions. Although final and binding, BPSK is not authorized to carry out forced execution. To enforce a decision, consumers must register it with the district court, which takes additional time and costs.

In addition, the existence of sectoral regulations by OJK such as POJK No. 61/POJK.07/2020 concerning LAPS SJK, creates dualism and overlapping jurisdiction between BPSK and LAPS SJK. This makes business actors argue that financial services disputes are not the competence of BPSK, so they refuse to comply with its decisions. Therefore, it is necessary reformulation of consumer protection policy, including strengthening the jurisdictional boundaries between BPSK and LAPS SJK and strengthening the executive power of BPSK decisions through regulatory changes. In addition, legal literacy for consumers and strengthening the BPSK institution are very important to create justice and legal certainty.

#### 4. CONCLUSION

The case of rejection of life insurance claims analyzed in this study shows that the Medan City Consumer Dispute Resolution Agency (BPSK) has a significant role in creating justice for policyholders or applicants. The verdict issued by BPSK confirms the acceptance of the application in its entirety and requires payment of the specified insurance money, creating a sense of justice for consumers. However, there are limitations in the effectiveness of Law No. 8 of 1999 concerning Consumer Protection, which does not provide the power of executorial function in BPSK decisions. Therefore, the determination of execution must be requested again at the District Court, causing legal obstacles and a time-consuming process. Analysis of the Decision of Case No. 023 / BPSK / IV / MDN shows that the existence of BPSK is less effective in providing legal certainty to customers who are harmed. The BPSK decision is considered administrative and does not fully cover the need for legal certainty for consumers, where legal protection for consumers over the rejection of life insurance claims does not get concrete legal certainty. This can have an impact on the allocation of the government budget which may not be appropriate. Although the execution has been determined at the District Court. This step is inseparable from new challenges, namely non-compliance of business actors with BPSK decisions and anmaaning from the District Court. This shows that improvements are still needed in the law enforcement system and consumer dispute resolution to ensure effective legal protection and legal certainty for all parties involved.

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