

Penal Mediation as Alternative in Criminal Case Settlement for Business Activities in Consumer Protection

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Abstract

The criminal act of operators in the Protection of the provisions of Article 62 paragraph (1) and Article 62 paragraph (2) of the Law on Consumer Protection. Within these provisions there are some criminal acts businesses that may or may do mediation penal, which would be more efficiently resolved by mediation penal, for the sake of justice, but has not been regulated in the act, nor yet regulated mechanism of mediation penal as settlement out of court. Based on these problems, this dissertation research aims to answer the problems are : (1) how the formulation of norms of criminal acts entrepreneurs in the field of consumer protection with the use of mediation and the penal ?, (2) how the formulation of mechanisms of penal mediation in the settlement of the criminal case for businesses in the area consumer protection. This research is a normative law research (legal research), that research with examine and analyze the legislation, legal principles, systematic law, synchronizing the legal vertical and horinsontal, comparative law and legal history, which relates to the use of mediation penal particularly with regard to the crime of entrepreneurs in the field of consumer protection. The results of the research in this dissertation research is that there is a change in the provisions of Article 62 (1) and paragraph (2), and adds one paragraph in Article 62 that paragraph (4), that the mediation penal can be used in the offenses referred to in Article 12, Article 13, Article 14 and Article 16 of the consumer protection Act, as well as outlining the mechanism of implementation of penal mediation in the settlement of the criminal case for businesses in the field of consumer protection by providing additional on the elucidation of Article 45 of of the Law on Consumer Protection.

Keywords: penal mediation, protection, consumer

1. Introduction

The dimension of Legal Science is very broad. Like a "tree", the law is a large and shady tree consisting of leaves, roots, twigs, stems, very dense fruits. Because so the law can be studied from the perspective of its principle, its source, its distinction, its classification and so on. When examined from the perspective of classification the law can be classified by its source, its form, its contents, its place of validity, its validity, its means of defending it, its nature, and its form.

According to Barda Nawawi Arief, the renewal of the criminal law is not only about the substance matter, but always related to the values that exist.

In traditional societies, conflicts that arise as a consequence of social interaction between members of society are generally sought to be resolved through deliberation and peace in order not to cause resentment, shame, guilt, or that can spark new conflicts. The whole process of conflict resolution is sought solely for the balance and peace of the people to recover. In traditional societies the settlement of criminal cases through peace is still alive because peace has a very high value.

The background of the problem in this research is juridical that there is kekokongon law (vacuum of norm), considering not yet the formulation of norms of criminal acts of business actor in the field of consumer protection which can be solved by using penal mediation and formulation of norm of mechanism of penal mediation in settling criminal case for criminal acts of business actor in consumer protection. Sociologically, in practice, the settlement of criminal cases has been resolved several times by using penal mediation. Philosophically, the use of penal mediation is an alternative in order to bring about ultimate justice by the principle of win-win solution.

In the effort of development and renewal of criminal law in Indonesia, the researcher need to conduct study of criminal acts of business actors that can be solved using the use of penal mediation in criminal case in the field of consumer protection and formulation of norm of mechanism of penal mediation in settling criminal case for business actor in protection field consumer.

2. Normal Formulation of Criminal Actors Business Actors With Penal Mediation in The Field of Consumer Protection

The current Consumer Protection Act in Indonesia has not regulated any norms regarding any business offense that may or may be resolved by using penal mediation.

2.1 If reviewed based on juridical comparisons set forth in the provisions of legislation in some countries and legislation in Indonesia as a knife analysis of this dissertation problem is as follows:

a. Based on juridical comparisons of legislation in some countries and in Indonesia.

- 1) The State of Austria: in the act of infringement, the Public Prosecutor (hereinafter abbreviated as JPU) may make the transfer on condition that the suspect acknowledges his actions and voluntarily pays for restitution or compensation and guarantees not to repeat his actions. (Austrian Criminal Law Article 90g paragraph (1))
- 2) The Netherlands: the application of penal mediation in the Netherlands, that the police and the public prosecutor can transition through transactie polities, only the police can transfer if the case is a minor offense
- 3) The Norwegian State: grants the authority to mediate penalties for the police and the public prosecutor by transferring cases for offenses, and for minor assault crimes, such as theft, vandalism and minor violence, by paying compensation in accordance with the agreement. (Norwegian Criminal Code Section 53 and KUHP Norway Article 67)
- 4) French State: prosecutors may request perpetrators of violations and light-weight crimes cases, to compensate victims (mediate penalties), and enforce this penal mediation, eliminate prosecution. (French Criminal Law Article 41-2)
- 5) The Polish State: on offenses and crimes under penalty of less than five years by paying compensation, the public prosecutor may, on his own initiative, or with the consent of the parties, forward the criminal case to a trustworthy institution or person to carry out a procedure that can be resolved using mediation between suspects and victims, (KUHP Poland Article 32 jo The Polish Criminal Law System)
- 6) The Swedish state: the requirements of a case or criminal case for the purpose of mediating penalties, namely: applicable only to penal mediation organized by the central or regional government, the perpetrator has pleaded guilty, the offense and the light category reported to the police, the parties voluntarily follow the mediation process, the mediator has consulted with law enforcement officers in accordance with the stage of the case faced also concerning the payment of the change. (VOM or Victim Offender Mediation Act)
- 7) State of Indonesia: contained in the provisions of Article 82 of the Criminal Code, Article 29 of Customs Ordinance, Article 16 (2) in conjunction with Article 18 paragraph (1) of Law Number 2 Year 2002 concerning the Police of the Republic of Indonesia, Article 1 paragraph (7) paragraph (1) jo Article 7 paragraph (2) of the Criminal Justice System Law, as follows:
 - The settlement of criminal offenses outside the court may only be made in violation with a penalty of fines (Article 82 Criminal Law);
 - Discretion may be conducted by the Indonesian Police Officials, on offenses and crimes with minor material losses (Law of the State Police of the Republic of Indonesia Article 18 paragraph (1))
 - Diversi should be pursued at the level of investigation, prosecution and examination of cases in PN where criminal offenses are under imprisonment under seven years and not repeat of crime (Law No. 11 Year 2012 on Child Criminal Justice System Article 1 Paragraph (7)) jo Article 7 paragraph (1) in conjunction with Article 7 paragraph (2))

b. By comparison with Islamic Law

In Islamic law, the basic principle of conflict resolution is prioritized with peace efforts. This is evident in Surah Al Hujurat verse (9) and Surat An Nisaa verse (114) that the principle of conflict resolution through peace (islah). Whereas in Surah Al Imron verse (159), Surat Al A'raf verse (199) and As Syuro verse (40) which hints of forgiveness forgive each other. And the concept of principle sulh, where the parties agreed to end the case peacefully

c. By comparison with Customary Law

Peaceful settlement of conflict has long been applied to indigenous peoples in Indonesia and is still acknowledged in its existence. Some indigenous and tribal peoples who have penorman in conflict resolution are Banjar Traditional Law in South Kalimantan (about Adat Badamai in Adat Law of Sultan Adam), Dayak Customary Law (with customary peace ceremony ceremony in Dayak Indigenous Wisdom), Traditional Law of Gampong Nangroe Aceh Darusalam (in Rule Qanun No.9 of 2008 and pattern of settlement of suloh, sayam and peum jaroe), Kei Customary Law in Southeast Maluku (custom density with Serini Council, to resolve conflict in Larvul Ngabal).

2.2 When viewed from Theoretical Review, then as a knife analysis of this dissertation problem used the theory:

a. Theory of Justice

The theory of justice that will be used as a knife of analysis in this dissertation is John Rawls's Theory of

Justice, especially what Rawls calls Justice as Fairness, by choosing justice with honesty, because with justice based on the principle of honesty, the settlement of criminal cases for business actors in the field of legal protection is possible by using penal mediation. Restorative Justice Theory

b. Penal Mediation Theory

The penal mediation theory that will be used as the analytical blade of this dissertation is Covey's mediation theory of penalty, that in Covey's mediation theory penalized the win-win principle.

c. Choice Theory of Case Settlement Mechanism

The theory of choice of settlement mechanism is used as the analytical blade in this dissertation, the theory put forward by Robert as quoted by I Nyoman Nurjaya, that the model of settlement of case or dispute in simple and modern society in essence can be negotiation, mediation, arbitration, and adjudication.

2.3 If reviewed based on Expert opinion, then the opinion of experts as a knife analysis of this dissertation problem is as follows:

a. Expert opinion Based on the legislation in several countries and countries of Indonesia are as follows:

- 1) According to DS.Dewi and Fatahillah A. Gratitude: that in the United States of America, the most settled crime by means of penal mediation is a criminal offense in the form of vandalism, minor assault, theft, fraud, and a number of serious crimes committed by the child.
- 2) According to Hc.Hulman and Jan Remmelink: that in the Netherlands, the police can make efforts in the form of transactie against minor offenders (overtredingen).
- 3) According to Achmad Ali and John Brightwaite: that not only civil cases, in Japan the settlement of criminal cases can also be settled by mediation, of course by volunteering between the litigant or the initiative of law enforcement officers in Japan.
- 4) According to Anna Mestitz and Simona Getta: that criminal offenses in Norwegian countries that are usually settled by means of penal mediation are in the form of minor criminal offenses, offenses, crimes with minor material losses, and some more serious crimes that pose no great risk but are committed by child.
- 5) According to Mudzakkir: that in the same way as Thailand, in Indonesia, mediation arrangements are still limited to civil cases, but in practice the judges have used penal mediation on a number of criminal offenses.

b. Expert opinions under customary law can be described as follows:

- 1) According to Muh. Idwar Saleh, Abdul Jebar Hafif and Ahmadi Hassan: that in the Banjar Traditional Law in South Kalimantan, peaceful settlement of the conflict has long been applied through Adat Badamai by means of Suluh, especially on the act of customary and fraud, with sanctions usually in the form of public condemnation .
- 2) According to Ihromi and Hermogenes Ugang, that Dayak customary law in Central Kalimantan, peaceful settlement of conflict is done with a traditional peace ceremony of Balai Hasaki Halapas, especially for customary acts that are not too heavy with sanctions in the form of jipen.
- 3) According to Taqwaddin and Syahrizal Abbas, that in Nangroe Aceh Darusalam the Gampong customary law applies, the settlement of the conflict especially on the offense is done with the sulh, sayam, and peum jaroe pattern, with sanction in the form of paying some compensation.

3. Normal Formulation of Criminal Actors Actor by Using Penal Mediation in Criminal Case Penalty in Consumer Protection

The current Consumer Protection Law in Indonesia has not regulated the formulation of norms for the mechanism of applying penal mediation in the settlement of criminal cases for businesses in the field of consumer protection.

In the provision of Article 45 paragraph (2) of Law No.8 of 1999 on Consumer Protection, it is only implicitly mentioned that in the settlement of criminal cases can be done outside the court based on the voluntary choice of the parties concerned.

In the provisions of Article 45 paragraph (2), as well as in the explanation section of the Consumer Protection Law has not regulated the formulation of norms of the mechanism of applying penal mediation in the settlement of criminal cases for business actors in the field of consumer protection, this will lead to abstract law (absturd of law) in the formulation of norms the mechanism of applying penal mediation in the settlement of business case for business actor in the field of consumer protection.

In the discussion of the impending national criminal law (*ius constitudem*) it is necessary to formulate a norm of the mechanism of applying penal mediation in the settlement of criminal cases in the field of consumer protection, given the absence of a formulation of norms of penal mediation mechanism, especially in the settlement of criminal cases in the field of criminal cases. Preparation The formulation of norm of mechanism of applying of penal mediation in the settlement of criminal case for business actor in the field of consumer

protection is quite urgent, given the existing criminal justice system is loaded with formalities and procedural burden so that in general the process is long and costly, perpetrators, and eliminates the important role of individuals in the settlement of criminal cases, while the end result often does not provide satisfaction for victims, perpetrators and the community.

The flow of phasing the process of settlement of criminal cases for business actors in the field of consumer protection through mediation penal as follows:

1. Forum Creating Stage (Bargaining Framework)

In the early stages of penal mediation, activities carried out by perpetrators and victims of criminal acts for business actors in the field of consumer protection along with penal mediators are holding meetings to create mediation forums of penal. The penal mediator notifies the litigants of the form of the settlement process. The penal mediator guides the offender and the victim to establish the basic rules of the negotiations, develops relationships and trust between the parties that the mediator of penal as a neutral party, negotiates the authority of the penal mediator with the parties, then the parties are required to submit statements and clarify the information.

2. Information Collection and Sharing Stages

In the second stage, the parties (perpetrators and victims) and penal mediators share information either through joint meetings or separately, ie penal mediators allow each party to convey the facts that occur so that conflict occurs, the mediator asks questions to develop information, penal mediators provide an opportunity for parties to hear about their version of the conflict, the penal mediator makes a thorough exploration of the wishes or interests of the parties and helps the parties in assessing and assessing their respective interests, and guiding the parties in bargaining bid on problem solving.

3. Problem Solving Stage

The third stage of this penal mediator can hold meetings jointly or separately with the perpetrators and victims of criminal acts for business actors in the field of consumer protection as a continuation of previous meetings according to their need to assist the litigants to arrange the agenda of discussing issues and establishing as well as evaluating troubleshooting solutions. After the penal mediator makes an overview and runs the caucus, the penal mediator can help the parties identify and clarify the issues, make a choice of case settlement, assist the parties in assessing, assessing and prioritizing the interests of the parties. Mediator penal can also give some instructions to the parties regarding bargaining settlement of the case.

4. Decision Making Stage

The decision-making stage is the final stage of the penal mediation process, in which the penal mediator works with the parties to assist the parties to choose mutually agreed solutions or at least acceptable solutions to the identified problems. Penal mediators help parties find a just ground for all, assist parties in evaluating problem-solving forms, assist parties to minimize differences, confirm and clarify agreements, encourage and urge parties to accept solutions problem. Penal mediators also help to formulate effective and efficient problem solving formula set forth in the agreement form to achieve a win-win solution.

5. Submitting the final result to the Court

The final result of penal mediation is submitted by mediator penal to court to strengthen the result of peace agreement to obtain the peace deed from judge which can be used as the basis of strength for executorial. The existence of a peace deed made by this judge may be analyzed with Article 23 of the Supreme Court Regulation Number 1 of 2008 concerning Mediation Procedures in the Court. The judge may establish a Deed of Peace if the peace agreement meets the following conditions:

- a. according to the will of the parties;
- b. not contrary to law;
- c. does not harm a third party;
- d. can be executed;
- e. in good faith.

In the settlement of criminal cases for business actors in the field of consumer protection through penal mediation can be done by modifying or incorporating penal mediation models contained in the Explanatory memorandum of the European Council Recommendation. R (99) which will be formulated into the Implementing Regulations in the form of future Government Regulations, namely the following ways: Penal Mediation at the stage of investigation, Penal Mediation at the stage of prosecution, Mediation penal at the stage of examination in court, and Mediation penal at stage execution of court decision.

Renewal of the criminal justice system can be initiated by providing a legal basis for penal mediation, ie making changes to the addition or revision of legislation relating to the process of settlement of criminal cases with additions to the explanatory section of Law no. 8 of 1999 on Consumer Protection, namely Explanation of Article 45 paragraph (2), namely the formulation of norms of the mechanism of applying penal mediation in the settlement of criminal cases for business actor in the field of consumer protection.

The concept as mentioned above is put forward with the following rationale and consideration:

- I. When viewed from the perspective of juridical comparison, then the knife analysis problem of this dissertation is as follows:
- a. Based on the juridical comparisons set forth in the Regulations of the Laws in Several Countries and in Indonesia.
- 1) Indonesia: that there is an arrangement of norms of the mechanism of applying penal mediation in Law no. 39 of 1999 on Human Rights, in Article 76 paragraph (1) and Article 96; in Article 18 paragraph (1) of Law no. 2 of 2002 on the State Police of the Republic of Indonesia; and also regulated in Law no. 11 of 2012 on the Criminal Justice System of Children, in Article 1 Sub-Article 6, Article 1 Paragraph (7), and Article 7 Paragraph (1).
 - 2) States: The formulation of norms of the mechanism of applying penal mediation in the United States shall be governed by the provisions of Article 90g paragraph (1), where the public prosecutor (hereinafter abbreviated as JPU), may transfer the criminal case if the suspect confesses his act and is willing to restitution and compensation, repeating his deed again.
 - 3) The Netherlands: that the formulation of the norms of the mechanisms for the application of penal mediation shall be governed by the provisions of Article 74 of WvS, that the police and the public prosecutor may transactie violations even on crimes whose criminal penalties are no more than six years, provided that the agreement between the victim and the suspect, willing to pay compensation in the form of compensation to the victim, as well as the termination of prosecution.
 - 4) Japan: that in the provisions contained in the Criminal Code and the Criminal Code of Japan indicate the formulation of the norms of the mechanism of applying penal mediation to the courts as well as to the police department. The litigants, the perpetrators, the victims who have agreed to make peace, the police or the public prosecutor can refer the moderator for later if peace is done, then the moderator is obliged to submit a mediation report to the police and the public prosecutor, then arrange the peace documents.
 - 5) Canada: The formulation of norms for the mechanism of applying penal mediation in Kanda is provided in Article 718 (e) and (f) of the Criminal Code of Canada, where the application of penal mediation in Canada involves many parties, including perpetrators, victims, mediators, police and prosecutors, ; that the perpetrators and victims are directed by the police to transfer criminal or diversion cases, provided they are based on the agreement of the mediators not to be mediated, where the outcome of mediation is usually an agreement to allow the offender to compensate.
 - 6) Norway: The formulation of norms for the mechanism of applying penal mediation in Nowegia is governed by The Mediation Act of 2005, in which perpetrators, victims, police, prosecutors, probation officers, moderators (mediation members) mediate, and the result is an agreement that the perpetrator pay compensation to the victim.
 - 7) France: The formulation of the norms of the mechanism of applying penal mediation in France shall be governed by the provisions of Articles 41-1 and Article 41-2 of the Code of Criminal Procedure or the French Criminal Procedure Code, which mediates between perpetrators, victims, police, prosecutors, lawyers, mediators. The police refer to a particular mediator in mediation, as well as to remedy the victim's compensation by the perpetrator. The results of mediation are prepared by the mediator in the form of a written document, to be endorsed by the Judge, thus binding the perpetrator to carry it out.
 - 8) Poland: The formulation of the norms of the mechanism of applying penal mediation in Poland is governed by the provisions of Articles 23a and 32 of the French Criminal Procedure Code, and Mediation proceedings in criminal matters of 2003, where mediation efforts are perpetrated by perpetrators, victims, mediators, prosecutors, face-to-face meetings in penal mediation in Poland. The results of mediation in the form of documents prepared by the mediator will be submitted to the public prosecutor to be studied and will then be determined and implemented by the perpetrator.
 - 9) Penal Mediation on the Recomendatioon of the Council of Europe 1999 No. R (99) on Mediation in Penal Matters: that the formulation of norms for the mechanism of applying penal mediation in this international provision can be used as a reference when composing or incorporating the concept of penal mediation, that the penal mediation developed is based on the basic ideas and working principles.
- b. By comparison with Islamic Law
Whereas in the provisions of Islamic Law, the formulation of norms of mechanisms for applying penal mediation appears in Islamic law, the basic principle of conflict resolution is prioritized with peace efforts. This appears in Surah Al-Anbiya verse 70, Al Hujurat verse 9 and Surah An Nisaa verse 114, Surah Al-Imron (112) that the principle of settling conflicts through peace islah, where the parties to the conflict and parties third as mediator mediate and produce a peace (islah) by way of sulh.
- c. By comparison with Customary Law
Peaceful settlement of conflict has long been applied to indigenou peoples in Indonesia and is still acknowledged in its existence. Some indigenou and tribal peoples who have formulation of norms of

mechanism of applying penal mediation in conflict resolution are Banjar Traditional Law in South Kalimantan (where the disputing parties, mediators are community leaders (tetuha kampung, Peace Agreement) after deliberation, salvation, and forgiveness are accompanied make a peace treaty): Dayak customary law (where the parties, their families, Damang Adat Chief as moderator with a customary peace ceremony ceremony in Indigenous Dayak Written Tradition, Adat Decision. After barunding (musyawarah), the form of settlement in the form of adat decision); Gampong in Nangroe Aceh Darusalam (where the parties, families, Keuchik as moderator and pattern of settlement of suloh, sayam, and peumat jaroe), Kei Traditional Law in Southeast Maluku (where the parties, witness, adat leader as moderator, Serini Council council, and the result of mediation in the form of a Peace Agreement After the deliberation, the traditional ceremony, to customary agreement is decided in the form of peace.

- II. When viewed from Theoretical Review, then as a knife analysis of this dissertation problem used the theory:
- a. Restorative Justice Theory

Restorative justice is a concept of thinking that responds to the development of the criminal justice system by focusing on the need for the involvement of victims, perpetrators and communities perceived as marginalized by mechanisms that work on the existing criminal justice system. On the other hand, restorative justice is also a new framework of thinking that can be used in responding to a criminal offense for law enforcement.

The handling of criminal cases for business actors in the field of consumer protection with restorative justice approach offers different views and approaches in understanding and handling a criminal act for business actor in the field of consumer protection. In the view of restorative justice the meaning of criminal act is basically the same as criminal law view in general that is attack against individual and society and social relation.

However, in the approach of restorative justice, the main victim of a crime is not a state, as in the current criminal justice system. Therefore, crime creates an obligation to fix damaged relationships due to the occurrence of a crime. While justice is interpreted as a process of searching for problem solving that occurs on a criminal case where the involvement of victim, perpetrator, and society becomes important in the effort of repairing, reconciling and guaranteeing the sustainability of the improvement effort.

Penal Mediation is a mediation in the settlement of criminal cases for business actors in the field of consumer protection through deliberation with the help of a neutral mediator, attended by victims and perpetrators either individually or with family and community representatives (religious leaders, community leaders, etc.), undertaken voluntarily, with the aim of recovery for victims, perpetrators and the community environment.

- b. Choice Theory of Case Settlement Mechanism

The theory of choice of settlement mechanism is used as a knife of analysis in this dissertation, the theory put forward by Robert as quoted by I Nyoman Nurjaya, that the model of settlement mechanism of case or dispute in simple and modern society in essence can be negotiation, mediation, arbitration and adjudication. Based on the above conflict resolution models, it can be argued that community conflict resolution can be classified into two ways: court (litigation) and outside court (non litigation). The resolution of legal matters occurring in the community is not entirely solved through court procedures.

4. Conclusion

Based on the discussion of the results of the discussion in this dissertation, it can be concluded as follows:

1. Whereas in the Consumer Protection Act there is no provision regulating the criminal acts of business actors by using penal mediation in the settlement of criminal cases in the field of consumer protection, based on some juridical references in Indonesia and several countries, comparing with Islamic Law, comparison with Customary Law, then in this dissertation, proposed the formulation of norms of criminal acts of business actors by using penal mediation in the provisions of the Consumer Protection Act in the future. The formulation of norms of criminal acts of business actors by using penal mediation in the settlement of criminal cases in the field of consumer protection in the future are as follows: Changing the sound of Article 62 paragraph (1) and paragraph (2) of the Law of the Republic of Indonesia No. 8 of 1999 on Consumer Protection, as follows:
 - a. Article 62 paragraph (1) shall be as follows: Business actors violating the provisions referred to in Article 8, Article 9, Article 10, Article 15, Article 17 paragraph (1) a, b, c, e, paragraph (2), and Article 18 shall be punished by imprisonment a maximum of 5 (five) years or a fine of a maximum of Rp 2,000,000,000.00 (two billion rupiah).
 - b. Article 62 paragraph (2) as follows: Business actors violating the provisions referred to in Article 11 and Article 17 paragraph (1) sub-paragraph d and f shall be imprisoned for a maximum of 2 (two) years or a fine of not more than Rp 500,000,000 (five hundred million rupiahs) .
 - c. Adding one paragraph to Article 62 of the Law of the Republic of Indonesia no. 8 of 1999 on Consumer

Protection, as follows: Article 62 paragraph (4) as follows: Penal mediation may be applied to criminal offenses as referred to in the provisions of Article 12, Article 13 paragraph (1), Article 13 paragraph (2), Article 14, and Article 16.

The provisions of Article 12 concerning the prohibition of business actors to promote goods at special prices within a certain time and in a certain amount; Article 13 concerning the prohibition for business actors promises free gift giving but does not fulfill it; Article 14 concerning business actors who offer goods and / or services by giving prizes by drawing but not fulfilling them; while Article 16 concerning the prohibition of business actors in offering goods and / or services through orders but not fulfilling them.

2. The formulation of the norms of the formulation of norms of the mechanism of applying penal mediation in the settlement of criminal cases for business actors in the field of consumer protection in the future will be formulated by adding to the explanation section of Article 45 of Law no. 8 of 1999, as follows: Adding sound Explanation Article 45 paragraph (2) of the Law of the Republic of Indonesia No. 8 of 1999 on Consumer Protection, which reads as follows Whereas in formulating norm of mechanism of applying of penal mediation in settlement of criminal case for business actor in consumer protection sector, there are 4 (four) stages: (1) creating forum (bargaining frame); (2) collection and sharing of information; (3) problem solving; (4) decision making. The 4 (four) stages as mentioned above can be described as follows:
 - a. Stage of Creating Forums (Bargaining Framework)
In the early stages of penal mediation, the activities undertaken by the perpetrator and the victim along with the penal mediator are holding a meeting to create a penal mediation forum.
 - b. Information Collection and Distribution Stage
In this second stage, the parties (perpetrators and victims) and penal mediators share information either through joint meetings or separately, ie penal mediators allow each party to submit the facts that occur so that the conflict.
 - c. Problem Solving Stage
The third stage of this penal mediator can hold meetings jointly or separately with the perpetrator and the victim.
 - d. Stages of Decision Making.
The decision-making stage is the final stage of the penal mediation process, in which the penal mediator works with the parties to assist the parties to choose mutually agreed solutions or at least acceptable solutions to the identified problems.
 - e. Submitting the final result to the Court
The final result of penal mediation is submitted by mediator penal to court to strengthen the result of peace agreement to obtain the peace deed from judge which can be used as the basis of strength for executorial.

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