



COPY

**CHIEF JUSTICE OF THE SUPREME COURT
OF THE REPUBLIC OF INDONESIA**

REGULATION OF THE SUPREME COURT
OF THE REPUBLIC OF INDONESIA
NUMBER 3 YEAR 2021
REGARDING
PROCEDURES FOR LODGING AND EXAMINING OBJECTIONS
TO DECISIONS OF
THE INDONESIA COMPETITION COMMISSION
AT COMMERCIAL COURTS

BY THE GRACE OF THE ALMIGHTY GOD

THE CHIEF JUSTICE OF THE SUPREME COURT OF THE REPUBLIC OF
INDONESIA,

- Considering:
- a. whereas Regulation of the Supreme Court Number 3 Year 2019 regarding Procedures for Lodging Remedy in the form of Objection to a Decision of the Indonesia Competition Commission is no longer adequate to accommodate the development of objection case handling issues against decisions of the Indonesia Competition Commission;
 - b. whereas there are several amendments to Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition based on Article 118 of Law

Number 11 Year 2020 regarding Job Creation having an effect on several provisions regulated in Regulation of the Supreme Court Number 3 Year 2019 regarding Procedures for Lodging Remedy in the form of Objection to a Decision of the Indonesia Competition Commission;

- c. whereas in order to implement the provisions of Article 118 of Law Number 11 Year 2020 regarding Job Creation and Government Regulation Number 44 Year 2021 regarding the Implementation of Prohibition of Monopolistic Practices and Unfair Business Competition, as well as in order to materialize a transparent and accountable process in the examination of objection to a Decision of the Indonesia Competition Commission, the Supreme Court needs to issue a new provision concerning procedures for lodging and examining objections to decisions of the Indonesia Competition Commission;
- d. whereas based on the considerations as intended in points a, b, and c, it is necessary to stipulate a Supreme Court Regulation regarding Procedures for Lodging and Examining Objections to Decisions of the Indonesia Competition Commission at Commercial Courts;

In view of:

1. *Reglement op de Burgerlijke Rechtvordering (Staatsblad Year 1847 Number 52);*
2. *Reglement Tot Regeling Van Het Rechtswezen In De Gewesten Buiten Java En Madura (Staatsblad Year 1927 Number 227);*
3. Law Number 14 Year 1985 regarding the Supreme Court (State Gazette of the Republic of Indonesia Year 1985 Number 73, Supplement to State Gazette of the Republic of Indonesia Number 3316) as amended several times and most recently amended by Law Number 3 Year 2009 regarding Second Amendment to Law Number 14 Year 1985 regarding the Supreme Court (State Gazette of the Republic of Indonesia Year 2009 Number 3, Supplement to State Gazette of the Republic of Indonesia Number 4958);
4. Law Number 2 Year 1986 regarding Public Courts (State Gazette of the Republic of Indonesia Year 1986 Number 20, Supplement to State Gazette of the Republic of Indonesia Number 3327) as several times amended recently by Law Number 49 Year 2009 regarding Second Amendment to Law Number 2 Year 1986 regarding Public Courts (State Gazette of the Republic of Indonesia Year 2009 Number 158, Supplement to State Gazette of the Republic of Indonesia Number 5077);
5. Law Number 5 Year 1986 regarding State Administrative Courts (State Gazette of the Republic of Indonesia Year 1986 Number 77, Supplement to State Gazette of the Republic of

Indonesia Number 3344) as amended several times and most recently amended by Law Number 51 Year 2009 regarding Second Amendment to Law Number 5 Year 1986 regarding State Administrative Courts (State Gazette of the Republic of Indonesia Year 2009 Number 160, Supplement to State Gazette of the Republic of Indonesia Number 5079);

6. Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia Year 1999 Number 33, Supplement to State Gazette of the Republic of Indonesia Number 3817);
7. Law Number 48 Year 2009 regarding Judicial Powers (State Gazette of the Republic of Indonesia Year 2009 Number 157, Supplement to State Gazette of the Republic of Indonesia Number 5076);
8. Law Number 11 Year 2020 regarding Job Creation (State Gazette of the Republic of Indonesia Year 2020 Number 245, Supplement to State Gazette of the Republic of Indonesia Number 6573);
9. Government Regulation Number 44 Year 2021 regarding the Implementation of the Prohibition of Monopolistic Practices and Unfair Business Competition (State Gazette of the Republic of Indonesia Year 2021 Number 54, Supplement to State Gazette of the Republic of Indonesia Number 6656);
10. Presidential Decree Number 97 Year 1999 regarding the Establishment of Commercial Courts within the Ujung

Pandang District Court, Medan District Court, Surabaya District Court, and Semarang District Court (State Gazette of the Republic of Indonesia Year 1999 Number 142);

11. Presidential Regulation Number 13 Year 2005 regarding the Secretariat of the Supreme Court of the Republic of Indonesia;
12. Presidential Regulation Number 14 Year 2005 regarding the Registrar's Office of the Supreme Court of the Republic of Indonesia;
13. Regulation of the Supreme Court Number 7 Year 2015 regarding the Organizations and Working Procedures of the Registrar's Offices and the Secretariats of Courts (Official Gazette of the Republic of Indonesia Year 2015 Number 1532) as amended several times and most recently amended by Regulation of the Supreme Court Number 2 Year 2020 regarding Third Amendment to Regulation of the Supreme Court Number 7 Year 2015 regarding the Organizations and Working Procedures of Registrar's Offices and Secretariats of Courts (Official Gazette of the Republic of Indonesia Year 2020 Number 916);

HAS DECIDED:

To stipulate : REGULATION OF THE SUPREME COURT REGARDING PROCEDURES FOR LODGING AND EXAMINING OBJECTIONS TO DECISIONS OF THE INDONESIA COMPETITION COMMISSION AT COMMERCIAL COURTS.

CHAPTER I
GENERAL PROVISIONS

Article 1

Referred to herein as:

1. Commercial Court shall be special courts within district courts as intended in the provisions of laws and regulations.
2. Objection shall be a request for examination to a Commercial Court lodged by a reported party not accepting a decision of the Indonesia Competition Commission.
3. Indonesia Competition Commission hereafter referred to as ICC shall be the commission as intended in Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition.
4. Reported Party shall be a business actor and/or party related to another business actor reported to ICC and/or examined on the initiative of ICC for allegedly committing a violation of Law Number 5 Year 1999 regarding Prohibition of Monopolistic Practices and Unfair Business Competition.
5. Objection Petitioner shall be the Reported Party lodging an Objection.
6. Court Information System shall be the entire information system provided by the Supreme Court for rendering services to justice seekers including administration, case services, and electronic hearings.
7. Day shall be calendar days.

CHAPTER II

OBJECTIONS AND PROCEDURES FOR LODGING OBJECTIONS

Article 2

- (1) An Objection may only be lodged by the Reported Party.
- (2) An Objection shall be examined and decided by a panel of judges.
- (3) In case an Appeal is filed, the ICC shall serve as the appellee.
- (4) In the event that an Objection is lodged by 1 (one) or more Objection Petitioner(s) against the same ICC decision and there is other Reported Parties in the said ICC decision not lodging an Objection, the said ICC decision shall have permanent legal force against such Reported Parties.

Article 3

- (1) An Objection shall be lodged by no later than 14 (fourteen) Days counted following the date of the reading out of the ICC decision if the Objection Petitioner is present or as following the date of notification of the ICC decision if the Objection Petitioner is not present in the hearing for the reading out of the decision.
- (2) An Objection shall be lodged through the registrar's office of the Commercial Court in accordance with the Objection registration procedure.
- (3) In the event that an Objection is lodged by more than 1 (one) Objection Petitioner to the same ICC decision at the same Commercial Court, the said case shall be registered under the same number.

Article 4

- (1) In lodging an Objection, the Objection Petitioner shall be obligated to submit:
 - a. a power of attorney;
 - b. a request for Objection;
 - c. a copy of ICC decision; and
 - d. a legalized copy of bank guarantee.
- (2) The request for Objection as intended in paragraph (1) sub-paragraph b must contain the causes of the Objection of the Objection Petitioner.
- (3) The copy of bank guarantee as intended in paragraph (1) sub-paragraph d shall be submitted in the event that the ICC decision contains an administrative sanction in the form of fine.
- (4) The Registrar shall register the already complete dossier of the Objection Petitioner.

Article 5

- (1) An Objection can be lodged by using the electronic case administration in accordance with the Court Information System.
- (2) In the event that an Objection is lodged through the Court Information System, the processes of summons for or notification of the hearing, hearing, reading out and presentation of decision shall be conducted electronically.
- (3) The processes as intended in paragraph (2) shall not require the approval of ICC.

Article 6

- (1) In the event that there is more than 1 (one) Objection to the same ICC decision at the same Commercial Court, but registered under different numbers, the Head of the Commercial Court shall appoint one of the panels of judges to handle the combining of such Objections and shall forward a carbon copy of such appointment to the panels of judges not handling the Objection.
- (2) The panels of judges not handling the Objection as intended in paragraph (1) shall issue a stipulation for the cessation of the examination of the case.

Article 7

- (1) Following the acceptance of an Objection, by no later than 3 (three) Days, the Head of the Commercial Court shall appoint a panel of judges comprising business competition-certified judges.
- (2) In the event that there have been no business competition-certified judges, then the Head of the Commercial Court shall appoint a panel of judges that has once decided a case of Objection to ICC decision.
- (3) In the event that there have been no judges as intended in paragraphs (1) and (2), the case of Objection shall be examined by the Head of the Commercial Court ex officio as the presiding judge of the panel.

Article 8

- (1) In the event that an Objection is lodged by more than 1 (one) Petitioner for Objection to the same ICC decision, but the legal domicile thereof is different, ICC can file a written application to the Chief Justice of the Supreme Court to

appoint one of the Commercial Courts along with the proposed place of the Commercial Court to examine the said Objection.

- (2) The application as intended in paragraph (1) shall be forwarded by ICC to all the Heads of the Commercial Courts receiving the request for Objection.
- (3) The Commercial Courts receiving the forwarded carbon copy of the application must cease the examination and must await the appointment of the Supreme Court.
- (4) Following the acceptance of the application as intended in paragraph (1), the Supreme Court by no more than 7 (seven) Days shall appoint a Commercial Court that examines the Objection.
- (5) Following the acceptance of the notification from the Supreme Court, by no later than 7 (seven) Days, the Commercial Courts not appointed must deliver the dossier of the case to the appointed Commercial Court.

Article 9

- (1) Following the acceptance of the notification from the Supreme Court, by no later than 3 (three) Days following the acceptance of the entire complete combined dossiers of the case, the Head of the Commercial Court appointed shall appoint a panel of judges to examine such combined case.
- (2) The examination as intended in paragraph (1) shall be commenced by no later than 7 (seven) Days after the panel of judges appointed to handle the combined Objection has received the entire dossiers of the case from the panels of judges not handling the Objection as intended in Article 6 paragraph (2) and/or from the other Commercial Courts not appointed by the Supreme Court as intended in Article 8 paragraph (5).

Article 10

- (1) In the event that there is an Objection, ICC shall deliver the copy of the decision and the dossier of the case thereof to the Commercial Court that examines the case of Objection on the Day of the first hearing.
- (2) In the event that the Objection is lodged by more than 1 (one) Petitioner for Objection as intended in Article 8 paragraph (1), but ICC has yet to deliver the copy of the decision and the dossier of the case thereof, ICC shall deliver the copy of the decision and the dossier of the case thereof to the Commercial Court appointed by the Supreme Court on the Day of the first hearing.

CHAPTER III

DEPOSIT FOR CASE FEES

Article 11

- (1) A Petitioner for Objection shall pay for a deposit for case fees in accordance with the provisions of laws and regulations.
- (2) In the event of combined case as intended in Article 6 paragraph (1) and/or appointment as intended in Article 8 paragraph (4), the deposit for case fees shall be combined into 1 (one).
- (3) Within 7 (seven) Days following the acceptance of the notification from the Supreme Court, the Commercial Courts not appointed must deliver the remaining deposit for case fees to the appointed Commercial Court.
- (4) In the event of lack of deposit for case fees, the Commercial Court can ask for additional deposit for case fees from the Objection Petitioner in accordance with the provisions of laws and regulations.

CHAPTER IV
PROCEDURE FOR EXAMINING OBJECTION

Article 12

The Examination of Objection shall be conducted without undergoing a mediation process.

Article 13

- (1) The Examination of Objection shall be conducted towards the formal and/or material aspects based on the copy of ICC decision and the dossier of the case thereof.
- (2) The panel of judges shall reject the request for Objection not containing the causes of the Objection as intended in Article 4 paragraph (2).
- (3) Based on the approval of the panel of judges, the Petitioner for Objection can present the witness and/or expert who has once been presented in the examination at ICC, but his/her statement was not included or was not taken into consideration in ICC Decision, or his/her presence was rejected to provide information, to listen to his/her statement in the hearing.
- (4) In the event that the Petitioner for Objection presents the witness and/or expert as intended in paragraph (3), ICC can present the witness and/or expert who has once been presented in the examination at ICC, to strengthen its argument.
- (5) The Petitioner for Objection cannot present evidence of letters and/or documentary evidence, both those once presented in the examination at ICC and new evidence of letters and/or documentary evidence.

Article 14

- (1) The examination shall be conducted within 3 (three) months at the quickest and 12 (twelve) months at the latest.
- (2) In the event that the examination as intended in paragraph (1) suffices, the panel of judges can finish the examination within a period of less than 3 (three) months.

CHAPTER V

DECISION

Article 15

- (1) In the event that the examination as intended in Article 14 paragraph (2) has been completed, the panel of judges may pronounce the decision without having to wait for 3 (three) months.
- (2) In the event that the panel of judges pronounces the decision within a period of less than 3 (three) months, the panel of judges shall be obligated to set forth the causes and the considerations for completing the examination within a period of less than 3 (three) months in the decision.
- (3) The pronouncement of the decision shall be conducted in a hearing open to the public.

CHAPTER VI

CASSATION

Article 16

- (1) Against the Objection decision, the Petitioner of Objection and/or ICC can lodge a cassation petition to the Supreme Court within 14 (fourteen) Days after receiving the notification of decision of the Commercial Court.
- (2) Remedy of cassation shall be final in nature and a judicial review against it cannot be exercised.

CHAPTER VII

EXECUTION OF DECISION

Article 17

ICC decisions both those against which Objection is not lodged and those that have been examined and decided through an Objection procedure, as well as have had a permanent legal force, must be executed voluntarily by the Reported Party/Objection Petitioner by no later than 30 (thirty) Days as of the date of the pronouncement of the decision and/or as of the acceptance of the notification of decision by the Reported Party/the Objection Petitioner.

Article 18

- (1) In the event that against a decision of ICC an Objection is not lodged, but it is not executed voluntarily, ICC shall file an application for execution to the head of the Commercial Court where the legal domicile of the Reported Party is.

- (2) The application for execution as intended in paragraph (1) shall be filed after ICC has registered the copy of ICC decision that has had a permanent legal force with the registrar's office of the Commercial Court where the legal domicile of the Reported Party is.
- (3) The Commercial Court shall provide a registration record for the registration as intended in paragraph (2) on the last page of the copy of ICC decision.

Article 19

In the event that a decision has been examined and decided through the Objection procedure and has had a permanent legal force, but is not voluntarily executed by the Petitioner of Objection as intended in Article 17, ICC shall file an application for execution to the Head of the Commercial Court deciding the said case.

Article 20

Based on the application for execution filed by ICC as intended in Articles 18 and 19, the decision that has had a permanent legal force shall still be executed in accordance with the provisions of the law of civil procedure.

CHAPTER VIII

TRANSITIONAL PROVISIONS

Article 21

- (1) The Examination of Objection to a ICC Decision at a district court that is still in hearing proceedings shall still be conducted by virtue of Regulation of the Supreme Court Number 3 Year 2019 regarding Procedures for Lodging

Remedy in the form of Objection to Decision of the Indonesia Competition Commission, until it obtains a decision that has had a permanent legal force.

- (2) The law of civil procedure shall still apply insofar as not contradictory to this Supreme Court Regulation.

CHAPTER VIII CLOSING PROVISIONS

Article 22

At the time this Supreme Court Regulation takes effect, Regulation of the Supreme Court Number 3 Year 2019 regarding Procedures for Lodging Remedy in the form of Objection to Decision of the Indonesia Competition Commission (Official Gazette of the Republic of Indonesia Year 2019 Number 941) shall be revoked and shall be declared invalid.

Article 23

This Supreme Court Regulation shall come into force as from its date of promulgation.

For public cognizance, hereby ordering the promulgation of this Supreme Court Regulation by publishing it in the Official Gazette of the Republic of Indonesia.

Stipulated in Jakarta

On September 16, 2021

THE CHIEF JUSTICE OF THE SUPREME COURT
OF THE REPUBLIC OF INDONESIA,
SGD.

MUHAMMAD SYARIFUDDIN

Promulgated in Jakarta

On September 17, 2021

THE DIRECTOR GENERAL OF
LAWS AND REGULATIONS OF
THE MINISTRY OF LAW AND HUMAN RIGHTS
OF THE REPUBLIC OF INDONESIA,
SGD.
BENNY RIYANTO

OFFICIAL GAZETTE OF THE REPUBLIC OF INDONESIA YEAR 2021 NUMBER 1060

ISSUED AS A TRUE COPY

THE HEAD OF LEGAL AND PUBLIC RELATIONS BUREAU OF
THE ADMINISTRATION AFFAIRS BOARD OF
THE SUPREME COURT
OF THE REPUBLIC OF INDONESIA,
[Signed]
SOBANDI