

ABSTRAK

Penelitian ini bertujuan untuk menganalisis dan mengkritisi pengaturan perlindungan hukum terhadap para pihak dalam kontrak pengadaan jasa konstruksi pemerintah dan penyelesaian sengketa dalam kontrak jasa konstruksi pemerintah. Tesis ini menggunakan jenis penelitian yuridis normatif dengan menggunakan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan kasus. Hasil dari penelitian bahwa pengaturan perlindungan hukum dalam kontrak pengadaan jasa konstruksi milik pemerintah berdasarkan Undang-Undang Nomor 2 Tahun 2017 tentang Jasa Konstruksi bertujuan untuk menjamin kepastian hukum, keseimbangan hak dan kewajiban, serta mencegah potensi sengketa. Perlindungan hukum harus didasarkan pada asas keseimbangan, kepastian hukum, dan itikad baik, yang dituangkan secara tegas dalam klausul-klausul kontrak sesuai dengan peraturan perundang-undangan yang berlaku. Beberapa poin utama perlindungan hukum para pihak dalam kontrak antara lain perlunya kejelasan dan keterbukaan klausul kontrak perlindungan hukum diberikan melalui pengaturan kontrak yang jelas, mencakup hak dan kewajiban para pihak, ketentuan penyelesaian sengketa, serta pengaturan risiko sesuai dengan prinsip keseimbangan. Pengaturan kontrak harus mengacu pada regulasi yang berlaku, seperti Undang-Undang Jasa Konstruksi, Perpres terkait pengadaan barang/jasa pemerintah, dan aturan pelaksana lainnya, sehingga memberi kepastian hukum bagi para pihak. Penyelesaian sengketa dalam kontrak jasa konstruksi milik pemerintah harus didasarkan pada prinsip-prinsip hukum kontrak, seperti asas konsensualisme, asas kepastian hukum, dan asas itikad baik. Selain itu, karena melibatkan pemerintah, harus pula mematuhi peraturan perundang-undangan yang berlaku, seperti Undang-Undang Jasa Konstruksi, Perpres terkait pengadaan barang/jasa, dan ketentuan lain yang relevan. Klausul kontrak sengketa seharusnya diselesaikan dengan merujuk pada klausul yang disepakati dalam kontrak, termasuk ketentuan penyelesaian sengketa (misalnya melalui mediasi, arbitrase, atau litigasi). Setiap penyelesaian sengketa harus menjamin kepastian hukum sesuai dengan dokumen kontrak dan aturan yang berlaku.

Kata Kunci: Perlindungan Hukum, Kontrak Pengadaan Jasa Konstruksi Milik Pemerintah.

ABSTRACT

This study aims to analyze and criticize the regulation of legal protection for the parties in government construction service procurement contracts and dispute resolution in government construction service contracts. This thesis uses a normative legal research type using a statutory approach, a conceptual approach, and a case approach. The results of the study are that the regulation of legal protection in government construction service procurement contracts based on Law Number 2 of 2017 concerning Construction Services aims to ensure legal certainty, balance of rights and obligations, and prevent potential disputes. Legal protection must be based on the principles of balance, legal certainty, and good faith, which are expressly stated in the contract clauses in accordance with applicable laws and regulations. Some of the main points of legal protection for the parties in the contract include the need for clarity and openness of the contract clause, legal protection is provided through clear contract regulations, covering the rights and obligations of the parties, provisions for dispute resolution, and risk regulations in accordance with the principle of balance. Contract regulations must refer to applicable regulations, such as the Construction Services Law, Presidential Regulations regarding government procurement of goods/services, and other implementing regulations, so as to provide legal certainty for the parties. Dispute resolution in government-owned construction service contracts must be based on the principles of contract law, such as the principle of consensualism, the principle of legal certainty, and the principle of good faith. In addition, because it involves the government, it must also comply with applicable laws and regulations, such as the Construction Services Law, Presidential Regulations regarding procurement of goods/services, and other relevant provisions. Dispute contract clauses should be resolved by referring to the clauses agreed in the contract, including dispute resolution provisions (for example through mediation, arbitration, or litigation). Every dispute resolution must guarantee legal certainty in accordance with the contract documents and applicable regulations.

Keywords: *Legal Protection, Government-Owned Construction Services Procurement Contracts.*