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**Mediation Regulation Re-Arrangement's Efforts At The
State Court Based On Confidential Principles As The
Parties' Protection**

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Abstract

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Mediation has a confidentiality principle as an advantage that should be able to safeguard the reputation of the disputing parties. Still, mediation arrangements in district courts are influenced by the principle of open trial to the public, causing problems, which are; how is the confidentiality principle-based mediation arrangement in district courts in providing protection for the reputation of the party in the dispute and how efforts to reform mediation arrangements in court to realize the confidentiality principle in settlement of civil cases in district courts which is oriented towards legal protection of the reputation of the litigant by using normative legal research that uses primary, secondary and tertiary legal materials collected by document study and then analyzed using descriptive, comparative, evaluative and argumentative techniques. The conclusion is that the mediation procedure in court is regulated by the Supreme Court Regulation Number 02 of 2003 then replaced by the Supreme Court Regulation Number 01 of 2008. Finally, the Supreme Court Regulation Number 1 of 2016 has regulated the principle of confidentiality but has not fully regulated the principle of confidentiality so that efforts are needed. Regulations on mediation experience law unification and reformation of the civil procedural law. The House of Representatives and the government form a special law to regulate mediation to become the legal basis for laws and regulations that use mediation.

A. Introduction

Indonesia is a state based on the law as regulated in Article 1 paragraph (3) of the 1945 Constitution. As the rule of law, Indonesia has an institution that is authorized to adjudicate a judicial institution carried out by the judicial authorities as regulated in Article 24 of the 1945 Constitution. Article 24 of the 1945 Constitution as the legal basis for regulating judicial bodies authorized to judge also regulates other bodies whose functions are related to judicial powers. Other bodies whose functions are related to judicial power are further described in Article 38 paragraph (2) of Law Number 48 of 2009 concerning Judicial Powers, which regulates the settlement of disputes outside the court so that dispute resolution can be carried out in court and outside the court. Alternative dispute resolution is a mention of out-of-court dispute resolution.¹

Dispute resolution outside the court is developing in Indonesia because, according to Sri Mamudji, the dissatisfaction with the dispute resolution process in court takes a long time and costs a lot.² Out-of-court dispute resolution is regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. Out-of-court dispute resolution is carried out through arbitration, consultation, negotiation, mediation, conciliation, and expert judgment. In particular, mediation is regulated in various laws and regulations such as Law Number 40 of 2014 concerning Insurance, Law Number 39 of 1999 concerning Human Rights, Law Number 32 of 2009 concerning Environmental Protection and Management, Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution, Law Number 8 of 1999 concerning Consumer Protection, Law Number 2 of 2004 concerning Settlement of Industrial Relations Disputes, Law Number 14 of 2008 concerning Openness of Public Information, Law Number 36 of 2009 concerning Health, Regulation of the Supreme Court Number 1 of 2016 concerning Mediation Procedures in Courts and Regulation of the Minister of Agrarian and Spatial Planning/Head of the National Land Agency Number 11 of 2016 concerning Settlement of Land Cases.

From the various laws and regulations governing mediation, it can be concluded that mediation can be carried out inside and outside the district court. Mediation carried out outside the district court is mediation as an alternative to dispute resolution as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The mediation

¹ Septi Wulan Sari, "Mediasi Dalam Peraturan Mahkamah Agung Nomor 1 Tahun 2016," *Jurnal Ahkam* 5 No. 1 (2017) : 5, DOI <https://doi.org/10.21274/ahkam.2017.5.1.1-16> accessed on <http://ejournal.iain-tulungagung.ac.id/index.php/ahkam/article/view/669>, on 26 april 2021.

² Sri Mamudji, "Mediasi Sebagai Alternatif Penyelesaian Sengketa di Luar Pengadilan", *Jurnal Hukum dan Pembangunan* 34, No. 3 (2004) : 194 DOI: <http://dx.doi.org/10.21143/jhp.vol34.no3.1440>, diakses <http://jhp.ui.ac.id/index.php/home/article/view/1440>, on 26 April 2021

used in the Judiciary is called court mediation.³ Mediation as an alternative to dispute resolution as regulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution has regulated mediation. Still, the mediation arrangements stipulated in Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution are incomplete because Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution regulates arbitration more than mediation. After all, mediation is only regulated in Article 6, and has not entirely regulated legal principles regarding mediation.

Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution as the law that regulates mediation outside the court should describe the principles regarding mediation so that it can become a legal basis for other laws and regulations because mediation is not only used as an out-of-court dispute resolution institution but is also used in district courts as regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Regulations in Courts. Mediation in court to achieve fast, simple and low cost settlement of cases,⁴ to solve the problem of the accumulation of case files in court⁵ and legal reforms carried out by the Supreme Court in the settlement of civil disputes, especially the mediation process which must be carried out in court.⁶

The renewal of civil case settlement arrangements because the source of civil procedural law, namely *Het Herziene Indonesisch Reglement (HIR)/Rechtsreglement Buitengewesten (Rbg)*, is a colonial legacy that is still used in Indonesia because Indonesia does not yet have a national civil procedural law,⁷ so that the Supreme Court issued a regulation to complement civil procedural law arrangements in Indonesia such as legal arrangements for mediation in court. Mediation is used by courts as a legal reform of peace institutions to resolve civil cases even though courts and mediation have

³ Friscilia N. Lomban, "Penyelesaian Sengketa Perdata Melalui Mediasi", *Jurnal Lex Privatum* 1, no. 4 (2013) : 97, accessed on <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/3067>, 26 April 2021.

⁴ Indriati Amarini, "Penyelesaian Sengketa yang Efektif Dan Efisien Melalui Optimalisasi Mediasi di Pengadilan", *Jurnal Kosmik Hukum* 16, no. 2 (2016) : 92 accessed on <http://jurnalnasional.umf5.id/index.php/KOSMIK/article/view/1954>, 26 April 2021

⁵ Emi Puasa Handyani, Zainal Arifin, "Penerapan Peraturan Mahkamah Agung Republik Indonesia Nomor 1 Tahun 2016 tentang Prosedur Mediasi di Masa Pandemi Covid 19 (Studi di Pengadilan Agama Kab.Kediri)", *Jurnal JHAPER* 6, no. 2, 2020 : 122 accessed on <https://jhaper.org/index.php/JHAPER/issue/view/jhaper%20Vol%206%2C%20No%20%202,2>, 25 April 2021

⁶ Rahadi Wasi Bintoro, "Kajian Ontologis Lembaga Mediasi di Pengadilan", *Jurnal Yuridika* 31 no.1 (2016) : 122, DOI : 10.20473/ydk.v31i1.1959.accessed on <https://ejournal.unair.ac.id/YDK/article/view/1959>, 26 April 2021

⁷ I Ketut Tjukup, dkk, "Penegakan Hukum Yang Berkeadilan Dalam Pemeriksaan Perkara Perdata Di Pengadilan Berdasarkan Hukum Acara Perdata Yang Pluralistik," *Jurnal Adhaper* 2, no. 2 (2016), DOI: [10.36913/jhaper.v6i2.135](https://doi.org/10.36913/jhaper.v6i2.135) : 350 accessed on <https://jhaper.org/index.php/JHAPER/issue/view/4>, 26 April 2021

different characteristics, especially mediation has the advantage of being a confidentiality principle.

Confidentiality in mediation is defined as being closed only in the mediation process, as according to David Spencer and Michael Brogan, referring to Ruth Carlton's views quoted by Syahrizal Abbas⁸, The closure of the mediation should not only be in the process but can be developed into closeness starting from the initial stage of the parties using mediation to the stage of the mediation result so that unpublished problems can become an attraction for entrepreneurs to mediate⁹ and beneficial for the disputing parties to maintain the reputation of the parties. An excellent reputation is vital for both individuals and legal entities, primarily legal entities, to maintain a reputation so that their business activities can continue and maintain good relations between the parties in the dispute.

Mediation, which has the advantage of secrecy in resolving disputes, is not followed by mediation in court because mediation in court is part of civil procedural law, so it is influenced by the openness of the trial as a principle of Civil Procedural Law so that it raises the problem on how is the confidentiality principle-based mediation arrangement in court in providing legal protection for the reputation of the party in the case and how are the efforts to reform mediation arrangements in district courts to realize the confidentiality principle in settlement of civil cases in district courts which are oriented towards legal protection the litigant's reputation.

The research method used in this research is normative legal research. Only library materials or secondary data are examined in normative legal research, which may include primary, secondary, and tertiary legal materials.

¹⁰ Data collection was carried out utilizing document study. Document or literature study is collecting and examining or tracing documents or literature that can provide information or information needed by researchers.¹¹ Legal material analysis techniques used are descriptive techniques, comparative techniques, evaluative techniques, and argumentative techniques.¹²

B. Discussion

⁸ Syahrizal Abbas, *Mediasi dalam Hukum Syariah, Hukum Adat, dan Hukum Nasional* (Depok : Kencana,2017),hlm. 29.

⁹ Marthen B. Salinding, "Dasar Filosofis Mediasi Sebagai Pilihan Penyelesaian Sengketa Lingkungan Hidup", *Jurnal Borneo Law Review* 1 no. 1 (2017) DOI: <https://doi.org/10.35334/bolrev.v1i1.709> : 47, <http://jurnal.borneo.ac.id/index.php/bolrev/article/view/709/0>, 26 April 2021

¹⁰ Soerjono Soekanto, *Pengantar Penelitian Hukum*, Penerbit Universitas Indonesia (Jakarta : UII-Press,1986), hlm.52.

¹¹ M. Syamsudin, *Operasionalisasi Penelitian Hukum* (Jakarta : PT. RajaGrafindo Persada, 2007), hlm. 101.

¹² I Made Pasek Diantha, *Metodologi Penelitian Hukum Normatif* (Jakarta : Prenada Media Grup,2016), hlm. 152-155.

1. Mediation Regulation Based on Confidentiality Principles in District Courts as Protection of the Parties' Reputation

The legal arrangements for settling civil cases in district courts are regulated in HIR/Rbg. HIR/Rbg is a legacy of colonial law products. The validity of HIR/Rbg as a source of civil procedural law in Indonesia is based on the Transitional Rules of Article 1 of the 1945 Constitution, which states, "All existing laws and regulations are still valid as long as a new one has not been implemented according to this Constitution".

In settlement of a civil case in a district court based on HIR/Rbg, the judge will try to reconcile the parties as regulated in Article 130 paragraph (1) HIR/154 paragraph (1) Rbg.¹³

Then the Supreme Court issued a Circular Letter of the Supreme Court Number: 1 of 2002 concerning Empowerment of First Level Courts to Implement Peaceful Institutions (Ex. Article 130 HIR/Rbg). Issuance of Circular Letter of the Supreme Court Number 1 of 2002 concerning Empowerment of the First Level Courts Implementing Peace Institutions (Ex. Article 130 HIR/Rbg) so that all judges hearing cases are serious about seeking peace.

Then to encourage the parties to go through the peace process, the Supreme Court integrated mediation in court with Supreme Court Regulation Number 2 of 2003 concerning Mediation Procedures in Courts.

The regulation regarding mediation procedures has been changed 2 (two) times which is the Supreme Court Regulation Number 1 of 2008 concerning Mediation Procedures in Courts and most recently regulated by Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures Courts. The Supreme Court, which replaced the legal arrangements regarding mediation procedures in court, shows that the Supreme Court has continuously improved the legal arrangements regarding mediation procedures in court before forming the law regulating the new civil procedural law.

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in court is the legal basis for mediation in court to settle civil cases so that cases registered in district courts are obliged to participate in mediation except for cases that are not obliged to participate in mediation as regulated in Supreme Court Regulation Number 1 of 2016 concerning Court Mediation Procedures.

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts as laws and regulations governing mediation in district

¹³ Article 130 paragraph (1) of the HIR states that if the two parties appear beforehand on that specified day, the district court will try to reconcile them through its chairman. Article 154 paragraph (1) Rbg states that if on the appointed day the parties appear beforehand, the district court, through the chairman, tries to reconcile it.

courts should apply the principles of mediation, such as the principle of confidentiality.

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts regulates the confidentiality principle as regulated in Article 5 paragraph (1) of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts but the confidentiality principle regulated in Supreme Court Regulation Number 1 of 2016 is not completed because there are still articles in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts that have not fulfilled the principle of confidentiality in mediation and differences in principles in mediation and court will be described as follows:

a. Articles in the Supreme Court Regulation that have not fulfilled the confidentiality principle in mediation.

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts has implemented the confidentiality principle stipulated in Article 5 paragraph (1) Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts, but Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts have not fulfilled the confidentiality principle in mediation because it still opens the opportunity to open a trial, such as Article 28 paragraph (4) of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts.

b. Differences of Legal Principles between the Court and Mediation

Regulations on the confidentiality principle in mediation are not fully implemented in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in courts. Civil case settlement in district courts is through mediation has different characteristics from courts because courts and alternative dispute resolution have different characteristics, especially regarding the principle of confidentiality.

The principle of confidentiality in mediation as an out-of-court dispute resolution is an advantage of settling disputes outside the court because the parties' problems and names of the parties should not be known by other parties as in mediation practices in arbitration institutions so that those who are in dispute can still maintain their good reputation. Apart from confidentiality, there are many other advantages of mediation such as where and whenever mediation can be carried out, is not bound by legal rules or is more flexible, does not require proof of either letter or witnesses, the process is fast, inexpensive, and produces a win-win solution.¹⁴

Apart from being an alternative to dispute resolution, mediation is also carried out in court. Mediation in court is part of civil procedural law.

¹⁴ Putu Eva Laheri, "Implementasi Asas Trilogi Peradilan Melalui Mediasi Sebagai Alternatif Penyelesaian Sengketa", *Jurnal Advokasi* 8, no. 1 (2018) : 35, <https://e-journal.unmas.ac.id/index.php/advokasi/article/view/84> accessed on 26 April 2021

Mediation is part of the dispute settlement stage in court.¹⁵ that mediation in court is influenced by the principles of civil procedural law, especially the principle of open trial which can result in problems and the names of the parties in the case can be known by outsiders.

The effect of the principle of opening a trial can be seen in Article 28 paragraph (4) of Regulation Number 1 of 2016 concerning Mediation Procedures in Courts, that the results of the agreement that occurred between the parties in the mediation were read out in court so that the settlement through mediation in court was unable to protect the parties' reputation because of the reading of the results of the agreement at the trial will reveal the names of the parties in litigation.

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts that do not fully apply the principle of confidentiality in mediation resulting in mediation in district courts that have not been able to provide protection for the reputation of the litigant, mediation in court should still maintain the principle of confidentiality so that mediation in court can provide benefits to the parties in a case, mainly to provide protection for the non-publication of problems and the results of the parties' agreements by the public or third parties and can provide protection for the reputation of the parties in a case such as mediation carried out in arbitration institutions that are closed from the start of registration until the verdict.

Mediation that is integrated into the court as regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts does not fully implement the confidentiality principle so that efforts are needed to renew mediation arrangements to realize the confidentiality principle in settlement of civil cases in district courts which are oriented towards providing legal protection against the reputation of the litigant.

2. Mediation Regulation Re-Arrangement Efforts to Realize Confidentiality Principles for Civil Dispute Resolution in the District Court as the Parties Reputation's Protection

Mediation that has been applied in Indonesia does not yet have a unification of a law that specifically regulates mediation so that the application of the principles applicable in the laws governing mediation varies, such as the implementation of the principles of mediation in court is different from the

¹⁵ Dedy Mulyana, "Kekuatan Hasil Mediasi di Luar Pengadilan Menurut Hukum Positif", *Jurnal Wawasan Yuridika* 3 No. 2 (2019) : 179, DOI:10.25072/jwy.v3i2.224., <https://ejournal.sthb.ac.id/index.php/jwy/article/view/224/175>, accessed on 26 April 2021

principles of mediation held in an arbitration institution.¹⁶ The arbitration institution also uses mediation in its practice in the Indonesian National Arbitration Board.¹⁷

The difference in applying the mediation principle in court and arbitration institutions, especially the confidentiality principle. The confidentiality principle of mediation in court, is not fully applied because the public can know the names of the parties, the problem, and the outcome of the agreement. In contrast, mediation in the arbitration institution has the entire principle of application so that the names of the parties, the problem, and the results of the agreement cannot be known by the public because, according to V. Harlen Sinaga that the arbitration trial is closed and kept confidentiality following Article 27 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution is intended to safeguard the reputation of the disputing parties.¹⁸

The difference in the application of mediation principles in mediation arrangements in court so that efforts to regulate mediation are needed so that the principles in mediation, especially the confidentiality principle in mediation in court, can be fully implemented so that it can provide benefits to the parties in a case by providing legal protection of both litigants' reputation. Efforts to reform regulations in mediation in court first by updating the regulations on mediation itself should be by making the unification of laws and regulations on mediation to become laws for laws and regulations that use mediation. The use of mediation in court should replace HIR/Rbg with the new civil procedure law, which will be described as follows:

3. Establishing of the unification of laws and regulations on mediation into a special law on mediation because mediation arrangements multi-dimension

The statutory regulations governing mediation are widely scattered in statutory regulations. The spread of mediation arrangements in many laws and regulations have not specifically regulated mediation except for Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts and Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. The mediation arrangements specifically regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts and Law Number 30 of 1999 concerning Arbitration and

¹⁶ Court and arbitration are used to compare the conduct of mediation because courts and arbitration institutions use mediation to settle cases registered in courts and arbitration institutions.

¹⁷ I Made Widnyana, "Rangkaian Proses Arbitrase", Indonesia Arbitrase Quarterly Newsletter 7, no. 4 (2015) : 17

¹⁸ V. Harlen Sinaga, Memahami Arbitrase dengan Praktik BANI dan Pembatalan Putusan Arbitrase (Jakarta, Fikahati Aneska, 2018), hlm. 125.

Alternative Dispute Resolution have specifically regulated mediation. Still, both regulations have weaknesses, among others:

1. Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts is incomplete and only applies to courts so that they cannot reach mediation that is carried out outside the court.¹⁹
2. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution consist of the following flaws:
 - a. There are few regulations regarding mediation because mediation is only regulated in Article 6 of Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. It is not complete in regulating mediation. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution regulates much of arbitration.
 - b. Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution does not yet regulate mediation in court.
3. Weaknesses of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts and Law Number 30 of 1999 concerning Arbitration and Alternative Dispute Resolution. So, efforts are needed to renew mediation arrangements by forming unification of mediation arrangements in the form of a law on mediation. Therefore the law regulating mediation can become the legal basis for the implementation of mediation carried out outside and inside the court and can provide benefits to the parties in dispute, especially the mediation arrangement in court, which can protect the parties' reputation in dispute. The legal protection that can be provided through mediation arrangements in a special law on mediation in court with the following measures, among others:
 - a. **Regulation on Mediation in District Courts is applied in Private; Starting from the Registration Stage, the Mediation Process Stage, until the agreement.**

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts as a legal basis for mediation is integrated into the court. Mediation that has a confidentiality principle should protect the reputation of the parties in a case even though mediation is carried out in district courts. Still, in reality, mediation in district courts is part of civil procedural law so that the parties before carrying out the mediation first follow the stages regulated in the civil procedural law, which is open, including starting from the registration of the lawsuit, the first trial and reading the peace deed.

¹⁹ Mariah, S.M.Purba, "Rekonstruksi Perma Nomor 1 Tahun 2016 Sebagai Alternatif Penyelesaian Sengketa di Pengadilan (Studi Kasus Pengadilan Negeri Simalungun)", *Jurnal Hukum Samudra Keadilan* 13, no.1 (2018) : 22 <http://jurnal.unsam.ac.id/index.php/jhsk/article/view/693>, accessed on 26 april 2021.

Regulation for civil procedure law and mediation in court has not provided legal protection for the reputation of the litigant because there is still a chance to provide information on the names of the parties in the case. To provide legal protection to parties who prioritize the interests of the reputation of the litigant in the district court, mediation in court should be carried out in private, starting from the registration stage of the mediation, the stage of the mediation process, and the agreement.

b. Regulation on Facilities and Infrastructure to Support the Implementation of Mediation in District Courts

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts has provided legal protection in terms of facilities and infrastructure, which regulates that mediation is held in the mediation room in the court as regulated in Article 11 paragraph (1) of the Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in the court.

A particular room for conducting mediation in court is required for conducting mediation to provide a closed mediation process. A particular room for conducting mediation in court is needed. A particular room for mediation in district courts should not be limited to mediation rooms. Still, in court, special rooms such as an administrative room for registering, a caucus room, a special waiting room for the parties, and a mediator for mediation provide a closed mediation process.

Special rooms for mediation purposes should be regulated in mediation arrangements to become a legal basis for district courts to provide special rooms so that the confidentiality-based mediation carried out in district courts will protect the reputation of those who are litigating in district courts.

c. Regulation on Judges, Advocates, Mediators, Clerks, and Parties must uphold the Confidentiality Principle in Mediation.

Judges, Advocates, Mediators, and Registrars are parties involved in settling civil cases through mediation who have obligations as regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation in Courts such as Judges those who have the status of examining Judges have the roles regulated in Article 3 paragraph (1), (2), Article 17 paragraph (1), (6) and (8), Article 28 paragraph (4) Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in the court, Advocates as legal representatives who represent the legal interests of the plaintiff or defendant have the obligations stipulated in Article 3 paragraph (1), Article 7 paragraph (1), Article 18 paragraph (1), (2) and (4). The Mediator has regulated duties in Article 14 of the Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts, while the Registrar is a court employee as stipulated in Article 1

Number 13 of Supreme Court Regulation Number 1 of 2016 concerning Mediation in Courts, however in Supreme Court Regulation Number 1 of 2016 does not regulate in detail the duties of the Registrar so that it refers to the duties of the Registrar as regulated in Article 58 59, 60 Law Number 2 of 1986 concerning Judiciary which has been amended twice with the last amendment regulated in Law Number 49 of 2009 concerning Second Amendment to Law Number 2 of 1986 concerning General Courts, and the obligations of the parties are regulated in Articles 3, 6, 7 of Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts.

Judges, Advocates, Mediators and Registrars, and Parties as parties involved in mediation have a role in mediation in district courts so that legal arrangements regarding mediation should regulate the obligations of Judges, Advocates, Mediators, and Registrars to uphold the principle of confidentiality to provide legal protection to the reputation of the litigant in district courts mediation.

d. Sanction Regulation for Information Disclosure on the Mediation Implementation

Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts does not regulate sanctions for judges, mediators, clerks, and parties who publish information on the implementation of mediation in court.

Sanctions for judges, mediators, clerks, and parties need to be regulated in regulation regarding mediation to provide legal protection for the reputation of the litigant because parties who publish information on the mediation will injure the confidentiality principle in mediation.

2. Renewal of Civil Procedural Law as Regulated in the HIR/Rbg

HIR/Rbg is a source of civil procedural law made during the colonial period. It is necessary to establish a new civil procedural law to keep up with the development of society and technological advances that affect the implementation of the trial process. HIR/Rbg is out of date.

Outdated HIR/Rbg regulations have caused the Supreme Court to make Supreme Court Regulation and Circular Letter, among others, such as Supreme Court Regulation Number 1 of 2019 concerning Case Administration and Trials in Courts electronically, Supreme Court Regulation Number 4 of 2019 concerning Amendments to the Supreme Court Regulation Number 2 of 2015 concerning Procedures for Settlement of Simple Lawsuits and Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts.

Supreme Court Regulations and Supreme Court Circular Letters made by the Supreme Court which regulates civil procedural law should be further regulated in law because Supreme Court Regulation has material restrictions

on content that govern procedural law²⁰ sehingga pengaturan hukum acara perdata dapat menjadi satu dan tidak tersebar dalam Supreme Court Regulation, Supreme Court Circular Letter, and other regulations established during the colonial era and is still considered relevant. Currently, Indonesia has a new civil procedure code.

C. Conclusion

Regulation arrangements regarding mediation based on the principle of confidentiality in district courts in providing protection to the reputation of the litigant have not been fully implemented in mediation arrangements in district courts because mediation is part of civil procedural law so that the regulation regarding mediation is regulated in Supreme Court Regulation Number 02 of 2003 Court Mediation Procedures, then replaced by Supreme Court Regulation Number 01 of 2018 concerning Mediation Procedures in Courts and lastly regulated in Supreme Court Regulation Number 1 of 2016 concerning Mediation Procedures in Courts influenced by the principle of being open to the public that applies in district courts so that the regulation regarding mediation in court must be carried out by the mediation arrangement in court in order to realize the confidentiality principle in the settlement of civil cases in district courts which is oriented towards legal protection of the parties' reputation in court.

Renewal of mediation arrangements in court to realize the confidentiality principle in settlement of civil cases in district courts which is oriented towards legal protection of the reputation of the parties in a case can be carried out through, among others, by making the unification of the law on mediation because the mediation arrangements are scattered in many laws and regulations and civil procedural law reforms regulated in the HIR/Rbg so that the House of Representatives and the government form a special law to regulate mediation is to become the legal basis for laws and regulations that use mediation as a way of resolving disputes outside and inside the court.

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²⁰ Sudarsono, "Produk Kebijakan di lingkungan Mahkamah Agung", *Varia Peradilan* 385 (2017)

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