



International
Labour
Organization

Factsheet on

Industrial Disputes Settlement

Industrial Dispute Resolution in Indonesia- Changes and Challenges

Labour market institutions play a key role in promoting the rule of law and fostering a sound environment for industrial relations. Good management, oversight, transparency and skilled professionals in the industrial relations court and informal dispute resolution mechanisms are necessary to promote legal certainty and provide cost-effective, timely and just resolutions to disputes. Fair procedures and outcomes also rely on the strength of stakeholders to engage in and represent their interests in these dispute resolution forums and in their ability to monitor court decisions.

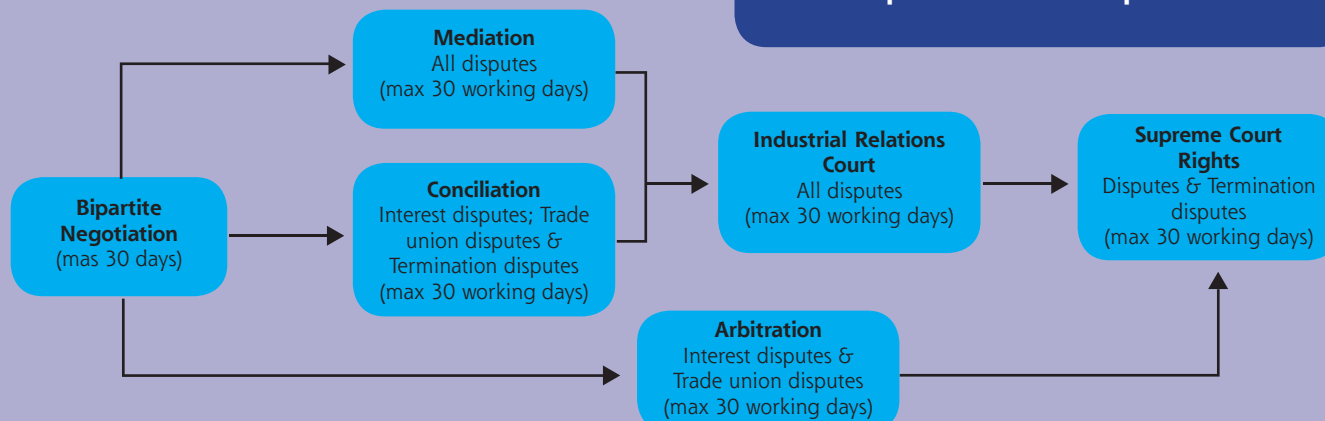
Following a series of labour law reforms and the enactment of Law No. 2 of 2004 on Industrial Relations Disputes Settlement, the Industrial Relations Court (IRC) began operating in 2006. This new system was designed to curb government intervention in industrial relations disputes and to create an accessible, cheap, fair and fast process for dispute resolution. Under the new system, four categories of disputes – rights disputes; interest disputes; termination disputes; and inter-union disputes can be heard by the IRC. A panel of three judges presides over each case before the IRC at the first instance and on appeal at the Supreme

Court. The judge panel consists of one trade union-nominated ad hoc judge, one employer-nominated ad hoc judge and one experienced career judge.

The IRC hears all categories of disputes and has final jurisdiction over interest disputes and inter-union disputes, which cannot be appealed to the Supreme Court. Although the new system allows individuals to bring disputes to the court, this has proven almost impossible for the average worker and most employers. Trade unions and employers organisations may represent parties as their proxies, however, the institutional capacity of trade unions to represent workers in the formal legal environment of the IRC is weak.

The new system for dispute resolution has also introduced new challenges for the Supreme Court, including the task of developing and strengthening the technical expertise of career judges and newly appointed ad hoc judges serving on the Industrial Relations Court. Other challenges, such as poor knowledge sharing among judges and courts, the lack of transparency in decision-making, weak data collection and management, poor internal management of human resources and a lack of resources are also present barriers to the IRC achieving its mandate – to provide a ‘prompt, appropriate, just and inexpensive’ system for dispute resolution.

Dispute resolution process





Step 1. Bipartite Negotiation For all categories of disputes, parties must first attempt to resolve the dispute through bipartite negotiation – negotiation between the worker(s) and employer.

Step 2. Mediation If bipartite negotiation fails, rights-based disputes must proceed to mediation with local government officials from the Ministry of Manpower and Transmigration. Parties to other categories of disputes may elect to either have their dispute mediated by their local manpower office or they may choose to engage in another form of alternative dispute resolution. Mediators may issue non-binding recommendations. Mutually agreed settlements may be registered at the IRC.

Step 2. Conciliation Parties to all disputes, except rights-based disputes, may opt for conciliation. This is similar to mediation, but is conducted by a mutually agreed on and independent conciliator. Both parties must agree to conciliation and to the conciliator – failing agreement, the dispute will be mediated by a government official. Conciliators may issue non-binding recommendations. Mutually agreed settlements may be registered at the IRC.

Step 2. Arbitration Parties to an interest dispute or inter-trade union dispute may agree to have their dispute arbitrated by an independent arbitrator. This provides parties with a relatively informal and flexible process to present and resolve their dispute. Decisions issued by the arbitrator are final and legally binding.

Step 3. Industrial Relations Court Disputes that fail to resolve through mediation or conciliation may be referred, by either party to the dispute, to the IRC. The IRC will hear the dispute according to the rules of civil procedure and Law No. 2 of 2004.

Step 4. Supreme Court Following a judgement from the IRC, a party may appeal their case to the Supreme Court. Arbitration decisions may only be appealed to the Supreme Court on administrative grounds, including illegality or fraudulent use of evidence.

ILO Support

The Government and Supreme Court of Indonesia recognise the sensitivity of labour disputes in the public domain and the significant role of the IRC in attracting foreign investment through the provision of predictable and timely resolutions to disputes. Disputes in the area of industrial relations, employment and occupation can be highly complex, sensitive and multidimensional, demanding nuanced and thoughtful decision-making.

Judges throughout the world are constantly and systematically reviewing, analysing and interpreting legal principles and decisions from other jurisdictions to further enrich the application and adaptation of labour law principles in their own countries. IRC judges in Indonesia, likewise, require the necessary skills to interpret and apply international labour law and to consider the broader context, both the domestic and international, in which their decision-making takes place.

As such the Supreme Court has formed a partnership with the ILO to strengthen the professional capacity of IRC judges. An integrated competency-based training program for all newly appointed judges and a series of advanced modules for serving judges will be created to support continuous learning and training and to enrich domestic decision-making through greater awareness of international instruments and comparative approaches.

The capacity of the Supreme Court Training Centre to revise, develop and deliver competency-based curriculum for IRC judges in response to their training needs and the demands of civil society for justice will also be strengthened through this partnership.

For further information please contact:
ILO Jakarta Office

Menara Thamrin Level 22
Jl. M.H. Thamrin Kav. 3
Jakarta 10250, INDONESIA
Tel. 021 - 391 3112 | Fax. 021 - 310 0766
Email: Jakarta@ilo.org
Website: www.ilo.org/jakarta