

Regulation Summaries

SUPREME COURT REGULATION NO.3 OF 2022

REGARDING ELECTRONIC MEDIATION

LEGAL BASIS

Supreme Court Regulation No. 3 of 2022 concerning Electronic Mediation (“PERMA No.3/2022”).

OBJECTIVE



To support the Electronic Judicial Ecosystem.



To realize the principle of an efficient, uncomplicated, and cost-effective judicial system.

PRACTICAL IMPLEMENTATION OF E-MEDIATION

E-mediation may only proceed upon mutual agreement by the Parties or their Representatives, as documented in a consent form. Upon agreement, the Parties or their Representatives are required to furnish the necessary documents and any relevant attachments.



Principal Party's ID card or alternative form of identification.



Recent color photograph



Electronic Domicile (Email)

Required Documents

Attachment

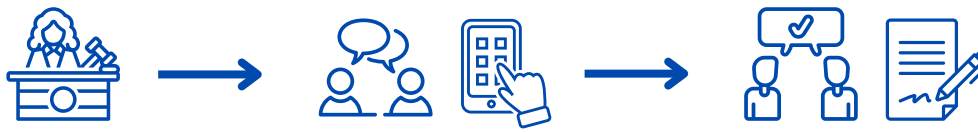
APPOINTMENT OF A MEDIATOR

The appointment process outlined in this regulation is essentially the same as manual or conventional mediation, as regulated in Supreme Court Regulation No.1 of 2016 regarding Mediation Procedure (“PERMA No.1/2016”), including the cost of hiring an external mediator being covered by the involved parties.

IDENTITY VERIFICATION

The mediator confirms the identities of the parties, either electronically or in person, during the initial encounter. Moreover, the mediator reconfirms the identities of the parties at each E-Mediation session to ensure alignment with the identities previously provided.

PLATFORM



The Mediator recommends that the Parties select a specific application or platform for the implementation of E-Mediation. Subsequently, the Parties will formally agree to this choice in writing.



E-mediation takes place within a Virtual Room on a selected platform, such as Zoom Meeting, Google Meet, WhatsApp, or any other suitable application.



If premium access is necessary for specific features of the application, the cost will be covered by the involved parties.



CONVOCATION AND SCHEDULE



The Mediator establishes the schedule based on the proposals submitted by the Parties.



The mediator transmits the convocation, which includes the Virtual Room link and Mediation Rules, electronically.

CHANGE IN MEDIATION METHOD



Changes from electronic to physical mediation can only be implemented with the mutual agreement of the involved parties.

IMPLEMENTATION OF E-MEDIATION



The Mediator has the option to utilize either the court's mediation room or an external mediation room, subject to specific conditions. In cases where one party has limited access to technology and communication, that party can also use the court's mediation room with written consent from the other party.

CASE SUMMARIES

The case summary is electronically submitted through the Court Information System ("Sistem Informasi Pengadilan") in E-Court proceedings or via electronic methods to the Mediator in non-E-Court litigation. Otherwise, if the litigation and mediation process is not conducted electronically, the case summary shall be submitted to the Mediator in hard-file (paper-based) form.

EXPERTS AND THIRD PARTIES

In order to involve experts or third parties in settling disputes, all parties must mutually consent. The chosen experts or third parties are required to share their identification with the Mediator and all involved parties via email or alternative communication channels.

E-MEDIATION RULES



E-Mediation should be conducted in a quiet and enclosed room, not in public spaces.



The parties have to wear appropriate and respectful attire (formal outfit).



One party must seek permission from the other party and the mediator if they wish to leave the meeting.

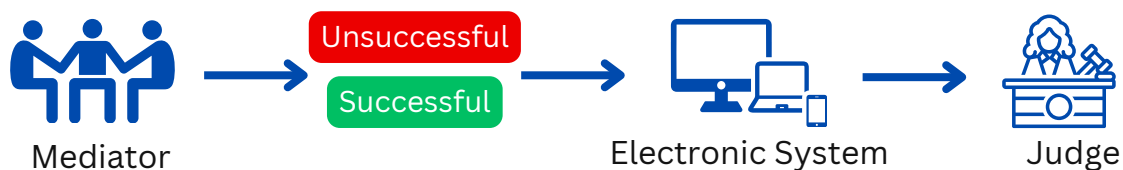


The Mediator may conduct an electronic caucus if one of the parties requests it or at the mediator's discretion.

The Mediator and all involved Parties are required to uphold the confidentiality of the E-Mediation process by refraining from disseminating mediation documents, capturing images, or making audio or video recordings.



MEDIATION OUTCOMES AND PROTOCOLS FOR DISSEMINATING MEDIATION OUTCOMES



SUCCESSFUL



Both parties formulated and shall enter the out-of-court settlement agreement.



The process of drafting and negotiating can be carried out electronically.



The mediator (Judge or Non-Judge) is allowed to assist the parties in drafting the agreement.



If both parties agree to the settlement, it should be signed either electronically or in writing. After that, the mediator will submit the agreement to the judge for the issuance of the settlement verdict.

UNSUCCESSFUL



The trial proceeds to litigation.



The trial schedule is announced at the last mediation session.



It is unnecessary to issue trial convocation unless there is a change in the schedule.



The trial schedule includes the submission of the defendant's reply ("Replik").

CLOSING

The provisions outlined in PERMA No. 1/2016 will remain in force, provided they do not conflict with the current PERMA. Consequently, issues not specifically addressed in this PERMA will continue to refer to PERMA No. 1/2016. Additionally, the implementation of electronic mediation has not been effectively executed in several courts across Indonesia, largely due to infrastructure constraints faced by either the disputing parties or the courts themselves.

If you have any further questions, please feel free to contact us at the details below

REACH US:



info@guperti.com



Jl. Dewi Sartika No.139 C, 3rd FL., Cawang, Jakarta Timur.



@guperti



@guperti

The content of this article, including all associated data and intellectual property, is the exclusive property of Guperti. Unauthorized reproduction, distribution, or use of this material without express written permission is prohibited. All rights are reserved under applicable copyright laws. For permissions or inquiries, please contact us.

2024. Guperti. All Right Reserved.